

IAVHCarl

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 680 (CM)

5 CRAIG CARTON,

6 Trial

7 Defendant.

-----x

8 New York, N.Y.
9 October 31, 2018
10 9:49 a.m.

11 Before:

12 HON. COLLEEN MCMAHON,

13 Chief District Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN

16 United States Attorney for the
17 Southern District of New York

ELISHA KOBRE

17 BRENDAN QUIGLEY

18 Assistant United States Attorneys

19 GOTTLIEB & JANEY LLP

Attorneys for Defendant

20 BY: ROBERT C. GOTTLIEB

21 DERRELLE M. JANEY

SETH J. ZUCKERMAN

SARAH LEDDY

22 ALSO PRESENT: MICHAEL ZAVONA, Special Agent FBI

23 SEAN SWEENEY, Special Agent FBI

IAVHCarl

1 (Trial resumed; jury not present)

2 THE COURT: Case on trial continued. The parties are
3 present. The jurors are not. Have a seat.

4 Mr. Gottlieb, I have to tell you that I was going nuts
5 yesterday afternoon trying to figure out what you were saying,
6 and it finally occurred to me because as I was literally
7 walking out the door, there came out of your mouth a new word
8 that hadn't been said all afternoon, the "M" word, material.
9 After I thought about it for a while, I realized that what you
10 had been trying to say when you kept talking about the state of
11 mind of the witness was something having to do with or touching
12 on materiality, which never for some -- I'm not a mind reader,
13 I'm really not, especially when I'm wearing a neck brace. And
14 since materiality is judged in a fraud case by an objective,
15 not a subjective, standard and state of mind is a subjective
16 standard, it just didn't occur to me that that's what you were
17 saying.

18 I'm sorry I didn't pick that up. But can we promise
19 that in the future we will use the right words?

20 MR. GOTTLIEB: Materiality, that's my response, your
21 Honor.

22 THE COURT: OK.

23 MR. GOTTLIEB: I promise you I will not forget that.

24 THE COURT: Thank you.

25 MR. GOTTLIEB: Thank you.

IAVHCarl

1 THE COURT: Just remember, I've just spent five weeks
2 with people screaming at me constantly at a very high decibel
3 level about materiality in a fraud case, so the fact that it's
4 an objective, not a subjective, standard is very, very, very
5 much on my mind. OK.

6 MR. GOTTLIEB: Your Honor, thank you very much.

7 THE COURT: No, no. I worry about these things, you
8 know. I want to make sure I understand what you're saying.

9 Mr. O'Neill, how are we doing with jurors?

10 THE LAW CLERK: Down one.

11 THE COURT: Down one. OK.

12 MR. KOBRE: Your Honor, if --

13 THE COURT: Mr. Kobre, yes.

14 MR. KOBRE: Thank you, your Honor.

15 Just to alert the Court to two items this morning, one
16 is we expect the next witness will testify under, hopefully, a
17 grant of immunity issued by the Court.

18 THE COURT: Is there some reason why we can't put this
19 person on the stand right now while we're waiting for this last
20 juror and do the thing that we have to do out of the hearing of
21 the jury now?

22 MR. KOBRE: There is no reason we cannot do that.

23 THE COURT: Let us do that.

24 MR. KOBRE: We're getting the witness right now. If I
25 can just hand up to your deputy clerk the application and

IAVHCarl

Klein - Direct

1 order.

2 THE COURT: I just hate getting the jurors in here
3 for, I don't know, a 15-minute cross and then telling them to
4 leave again.

5 MR. KOBRE: Yes, Judge.

6 THE COURT: Who is this witness?

7 MR. KOBRE: It's Harvey Klein, your Honor.

8 THE COURT: Harvey Klein.

9 MR. KOBRE: Oh, the other item, your Honor, is just
10 after the cross-examination of Mr. Pereira, the government
11 would like to offer some stipulations. Just to alert your
12 Honor.

13 THE COURT: That's fine. You'll offer them; I'll read
14 them.

15 Could the witness come up here, Mr. Klein. Actually,
16 Mr. Klein's counsel should come up here too.

17 HARVEY KLEIN,

18 called as a witness by the Government,

19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. KOBRE:

22 Q. Mr. Klein, did you receive a subpoena requiring you to
23 testify at this trial?

24 A. Yes.

25 Q. Do you intend to invoke your Fifth Amendment privilege

IAVHCarl

Klein - Direct

1 against self-incrimination when you're asked questions under
2 oath?

3 A. Yes.

4 Q. Do you now invoke that privilege?

5 A. Yes.

6 MR. KOBRE: Nothing further, your Honor. At this time
7 the government would ask that the Court issue the immunity
8 order that's before the Court.

9 THE COURT: Mr. Janey.

10 MR. JANEY: Good morning, your Honor. It's not clear
11 to the defense the basis for the application.

12 THE COURT: Well, the basis for the application is he
13 says he won't -- I mean, ordinarily one asks at least some of
14 the questions that one is going to ask of the witness and he
15 refuses to answer, and we do that five or six times before I
16 get the hint. That's usually how it's done.

17 MR. JANEY: I haven't heard that this morning, your
18 Honor.

19 THE COURT: Right. Would you mind asking a few
20 substantive questions of the witness?

21 MR. KOBRE: Sure.

22 THE COURT: Thank you, Mr. Kobre.

23 MR. KOBRE: Sure, your Honor.

24 BY MR. KOBRE:

25 Q. Did you participate in extending loans at high interest

IAVHCarl

Klein - Direct

1 rates?

2 A. I'd like not to answer.

3 Q. Based on what?

4 A. I'd like to take my Fifth Amendment.

5 Q. Did some of those loans, were they extended at very high
6 interest rates?

7 A. I'd like not to answer.

8 Q. Why?

9 A. I'd like to take my Fifth Amendment.

10 THE COURT: He asked the same question twice.

11 Q. Did you pay taxes on the loans that you extended?

12 A. I'd like not to answer.

13 Q. Based on what?

14 A. I'd like to take my Fifth Amendment.

15 Q. Were you asked questions by the FBI in connection with this
16 investigation?

17 A. I'd like not to answer.

18 Q. Based on what?

19 A. I'd like to take my Fifth Amendment.

20 Q. And did you lie to the FBI in connection with
21 those questions?

22 A. I'd like not to answer.

23 Q. Why?

24 A. I'd like to take my Fifth Amendment.

25 MR. KOBRE: Nothing further, your Honor.

IAVHCarl

Klein - Direct

1 THE COURT: OK. I'm going to sign the order of
2 immunity granting the United States Attorney's application
3 compelling Mr. Klein to testify and to provide other
4 information in connection with this matter on the ground that
5 he has indicated credibly that he will invoke his Fifth
6 Amendment right not to testify if he is not immunized. So he's
7 immunized.

8 MR. KOBRE: Thank you, Judge.

9 THE COURT: What that means, Mr. Klein, is that you
10 cannot be prosecuted other than for lying on the stand. If you
11 lie on the stand, there's no immunity against that. But you've
12 been immunized from being prosecuted for crimes in connection
13 with the matters that we're litigating here in the case against
14 Mr. Carton, and you're going to have to answer the questions
15 when the time comes, which is not right now.

16 THE WITNESS: Thank you.

17 THE COURT: You may step out.

18 Let's go.

19 (Witness excused)

20 (Continued on next page)

IAVHCarl

Pereira - Cross

1 (Jury present)

2 THE COURT: Good morning sir, how are you this
3 morning?

4 THE WITNESS: Good, Judge. How are you?

5 THE COURT: Just fine. You're still under oath, sir.

6 THE WITNESS: Yes.

7 THE COURT: Have a seat.

8 Who will be cross-examining? Mr. Janey.

9 MR. JANEY: I will, your Honor.

10 THE COURT: Thank you.

11 VICTOR PEREIRA, resumed.

12 CROSS-EXAMINATION

13 BY MR. JANEY:

14 Q. Good morning, Mr. Pereira.

15 A. Good morning.

16 Q. May I have Government Exhibit 914 which has been admitted
17 in evidence.

18 Mr. Pereira, drawing your attention to what's been
19 admitted into evidence as Government Exhibit 914, and in
20 particular drawing your attention to the portion of the email
21 from Mr. Mangione to Craig Carton. Do you see that there?

22 A. I do.

23 Q. Your testimony yesterday was that you could not locate this
24 email IN the email searches of the Barclays servers, correct?

25 A. On the Brooklyn servers, correct.

IAVHCarl

Pereira - Cross

1 Q. Thank you.

2 Sometimes I may call it Barclays or Brooklyn. I mean
3 them interchangeably, if that's OK with you.

4 A. OK.

5 Q. Was Mr. Mangione working at Brooklyn when you performed
6 this search?

7 A. No.

8 Q. So you were not able to inquire of Mr. Mangione, correct,
9 about the missing email?

10 A. No.

11 Q. Based on your experience in IT, there are a variety of
12 reasons as to why this email might not have been found in your
13 search, correct?

14 A. That I don't know.

15 Q. I'm sorry. I didn't hear you.

16 A. That I don't know.

17 Q. For example, if Mr. Mangione deleted the email, it would
18 not have appeared in the PST file, correct?

19 A. That's incorrect. If he would have deleted the email, the
20 email then would have been placed in a deleted items.

21 Q. If the email -- withdrawn.

22 In fact, the email could have been permanently
23 deleted, correct, by Mr. Mangione?

24 A. From the Microsoft Outlook application, you could
25 permanently delete it, not from the server.

IAVHCarl

Pereira - Cross

1 Q. If Mr. Mangione --

2 THE COURT: Hang on a second. So you could
3 permanently delete it from Microsoft, but there would still be
4 a copy left on the server?

5 THE WITNESS: Yes.

6 THE COURT: Thank you. OK.

7 Q. Let's explore that. If Mr. Mangione deleted the email,
8 then emptied the recycle bin, it would not have shown in the
9 search you instructed Intermedia to undertake correct?

10 A. That's incorrect.

11 Q. In fact, on October 18, 2018, you met with the prosecutors
12 in this case, correct?

13 A. I met, yes.

14 Q. And you explained to them that if Mr. Mangione deleted an
15 email, it would not have appeared in the PST file, correct?

16 A. There's -- there's multiple steps of a deletion for an
17 email a user needs to take.

18 Q. And what would those steps have been in order for
19 Mr. Mangione to have deleted this email?

20 A. So this email's being shown as a sent email. First, he
21 would had to have to gone into his sent items and deleted the
22 email, which then that email would then go into the deleted
23 items. Then from there, empty the deleted items folder, all
24 right. Then next part is there's a recover deleted items
25 within Microsoft Outlook. If the user has that knowledge to be

IAVHCarl

Pereira - Cross

1 able to go in there, they could then delete it, then that is
2 permanently deleted from the Microsoft Outlook application.
3 But from experience, I have reached out to Intermedia when I
4 needed an email to be recovered, and they would be able to
5 recover on their end.

6 Q. So let's take this in parts. To my first question, based
7 on your testimony today, it's possible that Mr. Mangione could
8 have deleted the email from his Outlook, correct?

9 A. I don't know.

10 Q. If he had taken the steps that you described and just
11 testified to, it would have been deleted, correct?

12 A. Correct.

13 THE COURT: From Outlook?

14 THE WITNESS: That's correct.

15 THE COURT: I want to be clear because I was under the
16 impression that email never dies. So would there be another
17 copy somewhere?

18 THE WITNESS: On the server with Intermedia.

19 THE COURT: Did the type of search that you and
20 Intermedia did, was that designed to recover that or was it
21 designed to recover Microsoft Outlook?

22 THE WITNESS: My search, no. If he took, if Fred
23 Mangione took the three steps, no, I would not be able to find
24 it against the PST. The second, Intermedia, from experience
25 with Intermedia, they have been able to recover a deleted

IAVHCarl

Pereira - Cross

1 email. I'm not just aware of how long it would have sit on
2 Intermedia's servers, but from experience they have been able
3 to recover.

4 THE COURT: You don't know whether Mr. Mangione took
5 the three steps or two steps or any steps?

6 THE WITNESS: That I don't know.

7 THE COURT: Thank you.

8 BY MR. JANEY:

9 Q. Just going back to the nature of the search, you performed
10 these searches, correct?

11 A. Yes, I performed several searches.

12 Q. Right. So when you in your colloquy with Her Honor, what
13 you described in terms of what Intermedia might have been able
14 to do, that's not relevant, correct?

15 MR. KOBRE: Objection.

16 Q. In other words, you undertook the search, correct? I'm
17 sorry. Go ahead.

18 A. I -- I did the search, and I also had Intermedia do the
19 search.

20 Q. And you undertook --

21 THE COURT: You mean there were two searches? You did
22 one and they did one?

23 THE WITNESS: That's right.

24 Q. Again, just so that we're clear, if Mr. Mangione took the
25 three steps that you described, the email could have been

IAVHCarl

Pereira - Cross

1 deleted from the PST file, correct?

2 A. That's correct.

3 Q. And that would have affected your search and your ability
4 to find this email, correct?

5 A. That's correct.

6 Q. Do you know whether Intermedia was able to restore
7 Mr. Mangione's emails in the search that you described?

8 A. For which search?

9 Q. Well, what searches did Intermedia perform?

10 A. Yesterday I stated they performed three searches. The
11 first search was for the email, the email address of
12 labs123@aol.com, with the date of December 16, 2016; the
13 subject of follow-up. That was the first search.

14 The second search was for Fred Mangione's mailbox with
15 a date range of January 1, 2016, to the present date with
16 emails received from and sent to labs123@aol.com and
17 craig@cureitbrand.com.

18 So the third search was against Fred Mangione's
19 mailbox for all items of December 15 and December 16 of 2016.

20 Q. Do you recall whether the search that Intermedia did was
21 able to restore emails from Mr. Mangione's email box for 2016?

22 A. Yes.

23 Q. Were they?

24 A. Yes.

25 Q. Yesterday you testified that Mr. Mangione had only one

IAVHCarl

Pereira - Cross

1 email account, correct?

2 A. One mailbox.

3 Q. Is there a difference between an email box and an email
4 account?

5 A. They're the same, an email account, email mailbox.

6 Q. Right. And yesterday you testified that the search was
7 undertaken with respect to fmangione@brooklynse.com, correct?

8 A. That's correct.

9 Q. Are you familiar with Mr. Mangione's email account
10 fmangione@brooklynnets.com?

11 A. @brooklynnets.com.

12 Q. @brooklynnets.com.

13 A. Net, no.

14 THE COURT: Net, brooklynnets.com.

15 THE WITNESS: Nets.com, yes.

16 THE COURT: Does he have a nets email account?

17 THE WITNESS: Yes, he has a brooklynnets.com email
18 account.

19 BY MR. JANEY:

20 Q. So is it fair to say that Mr. Mangione has two email
21 accounts?

22 A. No, that's incorrect. I could explain.

23 Q. Please.

24 A. So a mailbox, an email account will have a primary email
25 address. So the primary email address for Fred Mangione is at

IAVHCarl

Pereira - Cross

1 the time fmangione@brooklynse.com. What's called in the
2 mailbox there's aliases. Within the aliases, he has
3 fmangione@brooklynnets.com. He also had fmangione@NJnets.com,
4 which previously before being the Brooklyn Nets, we were the NJ
5 Nets.

6 So if anybody externally outside of our environment
7 were to email fmangione@brooklynnets.com, it would be received
8 at the fmangione@brooklynse.com mailbox. So if Fred Mangione
9 were to reply to that email that person sent to him at
10 brooklynnets.com, if he replies, it's going to reply from
11 fmangione from brooklynnets.com because that's the primary
12 email address. And he has the other email address as aliases.

13 Q. How did your email search incorporate the aliases, if at
14 all?

15 A. When you do a search, it does it against the mailbox. When
16 you log into Intermedia and you're looking for the user, you
17 type in "Fred Mangione"; it pulls up Fred Mangione's mailbox
18 listing all contents from all the domains that I mentioned.

19 Q. Mr. Pereira, returning your attention to Exhibit 914, do
20 you have that there?

21 A. I do.

22 Q. And focusing in particular on the signature block area, in
23 yesterday's testimony you stated that there were several things
24 unusual about this particular document in that area, correct?

25 A. That's correct.

IAVHCarl

Pereira - Cross

1 Q. You testified that as part of the email search exercise,
2 you were asked to review that signature block, the signature
3 box I think you referred to it, of this email and compare it to
4 other emails that were in Mr. Mangione's mailbox that had been
5 sent under server 162016.

6 A. Correct.

7 Q. And you noted two differences: One, the chief of staff,
8 the middle word "of." Do you recall that?

9 A. I do.

10 Q. You testified that in all of the 226 sent emails, the word
11 "of" has a capital "O." Do you recall that testimony?

12 A. Yes.

13 Q. Now, drawing your attention to two exhibits that have been
14 admitted in evidence, Government Exhibit 2109 and Government's
15 Exhibit 2128, they appear here side by side. Are you able to
16 see both of them?

17 A. Yes.

18 Q. Viewing the chief of staff title and comparing them,
19 neither of these emails have the "O" capitalized in chief of
20 staff, correct?

21 A. Correct.

22 Q. Second, drawing your attention to Exhibit 2128, there's a
23 hard break after "phone," but there's not one in Exhibit 2109,
24 correct?

25 A. Correct.

IAVHCarl

Pereira - Cross

1 Q. Isn't it fair to say that your testimony of yesterday that
2 the titles in all of the 226 sent emails is the same is
3 incorrect?

4 MR. KOBRE: Objection. Mischaracterizes the witness'
5 statement.

6 THE COURT: The witness is perfectly capable of saying
7 that it mischaracterizes his testimony. You don't have to.
8 Objection's overruled.

9 Answer the question, sir. Was your testimony
10 incorrect yesterday?

11 A. It was not.

12 Q. Why wasn't it?

13 A. Exhibit 2109 with the date of December 15, 2016, know for a
14 fact, looking at all the emails from Fred Mangione, all sent
15 emails show the title with the capital "O" and the hard space
16 between "phone" and "mobile." For a fact that I know our CMO
17 at the time requested to have Fred Mangione's title corrected.
18 Exhibit 2128 shows the date of February 15, 2017, where I know
19 that not -- I don't know the exact timing, but it was requested
20 by the CMO to myself to correct Fred Mangione's "of" to a lower
21 case before.

22 Q. Well, that's different than your testimony of yesterday,
23 correct? In other words, isn't it true that yesterday you
24 said, with the exception of Exhibit 914, that all of the 226
25 emails would have the "O" capitalized and a hard break after

IAVHCarl

Pereira - Cross

1 "phone," correct?

2 A. On December 16, 2016, all 226 had the capital "O" and the
3 hard space.

4 Q. But these are emails that yesterday you indicated were
5 maintained in the normal course, correct?

6 MR. KOBRE: Objection.

7 THE COURT: The objection's overruled.

8 A. The one on the right, it's a different date.

9 Q. Well, but that wasn't my question.

10 A. What was it?

11 Q. You testified yesterday that these were emails that were
12 maintained in the normal course, correct?

13 A. Yes.

14 THE COURT: OK.

15 Q. Now, you're the head of IT at Brooklyn, is that correct?

16 A. That's correct.

17 Q. Can you tell us just a little bit more about the scope of
18 your responsibility in that role.

19 A. Overseeing the infrastructure environment for our business
20 regards to servers, networking equipment, end user computers
21 from desktops, laptops, printing devices, supporting the
22 day-to-day infrastructure.

23 Q. You testified yesterday that there are several different
24 types of records maintained electronically on Barclays' file
25 server and also in the file storage, correct?

IAVHCarl

Pereira - Redirect

1 A. Correct.

2 Q. Are electronic records maintained of tickets purchased in
3 connection with live events or concerts held at properties
4 owned by Barclays?

5 A. That I don't know.

6 Q. Are copies of tickets maintained on the file servers?

7 A. That I don't know.

8 Q. Are you familiar within what department these records are
9 maintained?

10 A. Can you be more specific on the records?

11 Q. Are you familiar with what department maintains either
12 physical or electronic records of tickets related to live
13 events or evidence of the purchase and sales for those events?

14 A. I would mention the box office department, the finance
15 department.

16 MR. JANEY: No further questions, your Honor.

17 THE COURT: Thank you.

18 Do we have any redirect?

19 MR. KOBRE: I do, your Honor. Just briefly.

20 If we can actually just leave that exhibit up, yeah,
21 2109 and 2128.

22 REDIRECT EXAMINATION

23 BY MR. KOBRE:

24 Q. Mr. Pereira, you were just asked a series of questions
25 about these two emails, is that right?

IAVHCarl

Pereira - Redirect

1 A. That's right.

2 Q. Were these two emails that you were able to authenticate
3 and find on Brooklyn's email systems?

4 A. Yes.

5 Q. What is the date on the left-hand email, Government
6 Exhibit 2109?

7 A. December 15, 2016, 10:51 a.m.

8 MR. KOBRE: If we could just leave that up and
9 enlarge. And if we can just enlarge the email header on
10 Government Exhibit 2128.

11 Q. What is the date of this email?

12 A. February 15, 2017, 6:27 a.m.

13 Q. Were either of these emails sent on December 16, 2016?

14 A. No.

15 Q. When you testified yesterday about the 226 emails all
16 having the capital "O" and the hard space, what time frame were
17 you referring to there? For what day were you testifying
18 about?

19 A. December 16, 2016.

20 Q. So neither of these two emails fall into that period?

21 A. That's correct.

22 Q. Let's take a look now at Government Exhibit 914, and if we
23 can just enlarge the....

24 Did you search Brooklyn's email systems for an email
25 meeting the sent by Fred Mangione to labs123@aol.com on

IAVHCarl

Pereira - Redirect

1 December 16 with the subject follow-up?

2 A. Yes.

3 Q. And what was the result of your search?

4 A. No results were found.

5 Q. I think you testified yesterday, did you perform a second
6 search with respect to this email?

7 A. Yes.

8 Q. Just describe that.

9 A. The second search for this email was to have our email
10 provider, Intermedia, to do a search against their servers for
11 this email.

12 Q. And what was the result of that?

13 A. No results were found.

14 MR. KOBRE: Just one moment, your Honor.

15 (Counsel confer)

16 MR. KOBRE: Thank you. Nothing further, your Honor.

17 THE COURT: Anything else?

18 Thank you, sir. You may step down.

19 THE WITNESS: Thank you.

20 (Witness excused)

21 THE COURT: Call your next witness, please.

22 MR. KOBRE: At this time the government would like to
23 offer three stipulations.

24 THE COURT: Thank you. Would you pass them up.

25 MR. KOBRE: We're passing up what's marked Government

IAVHCarl

Pereira - Redirect

1 Exhibits 5, 8, and 9.

2 THE COURT: You'll remember, folks I told you that a
3 stipulation is an agreement between counsel, so it's evidence
4 in the case. And it's my practice to read the stipulations to
5 you. They all begin the same way.

6 It is hereby stipulated and agreed by and between the
7 United States of America by Geoffrey S. Berman, United States
8 Attorney for the Southern District of New York, Elisha Kobre
9 and Brendan Quigley, Assistant United States attorneys, of
10 counsel, and Craig Carton, the defendant, by and through his
11 counsel Robert Gottlieb, Esq., and Derrelle Janey, Esq., that:

12 1. Government Exhibits 200 through 264 and 266
13 through 297 are true and accurate copies of emails and other
14 files obtained from Google.

15 2. Government Exhibits 500 through 537 and 539
16 through 552 are true and accurate copies of emails and other
17 files obtained from AOL.

18 3. Government Exhibits 700 through 778 are true and
19 accurate copies of emails and other files obtained from
20 GoDaddy.

21 4. The parties further stipulate and agree that this
22 stipulation regarding emails and files obtained from Google,
23 AOL, and GoDaddy, may be received into evidence as a government
24 exhibit at trial, and it is.

25 This is Government Exhibit 5 in evidence, and it is

IAVHCarl

Pereira - Redirect

1 signed -- I couldn't tell you whether it was signed by
2 Mr. Kobre or Mr. Quigley because it's kind of a scrawl. I
3 think it's signed -- I couldn't tell you whether it's signed by
4 Mr. Gottlieb or Mr. Janey either, but it's signed, OK. That's
5 good enough for me.

6 So that's the first stipulation that's in evidence.

7 Stipulation No. 2. It is hereby stipulated and agreed
8 by and between the usual suspects that:

9 1. Government Exhibit 2000-A is a true and correct
10 copy of a portion of an account statement and other records
11 that were created, kept, and maintained in the ordinary course
12 of business of Citibank, were created by persons with knowledge
13 of or created from information transmitted by persons with
14 knowledge of the information that's shown and were created at
15 or near the time the information became available.

16 2. Government Exhibits 2017, 2018, 2019, 2019-A,
17 2020, 2021, 2021A, 2022, 2023, 2023-A, 2024, 2025, 2026, and
18 2026-A are true and correct copies of account statements and
19 other records that were created, kept, and maintained in the
20 ordinary course of business of JPMorgan Chase, N.A., and were
21 created by persons with knowledge of or created from
22 information transmitted by persons with knowledge of the
23 information shown and were created at or near the time the
24 information became available.

25 3. Government Exhibit 2027 is a true and correct copy

IAVHCarl

Pereira - Redirect

1 of account statements and other records that were created,
2 kept, and maintained in the ordinary course of business of M &
3 T Bank and were created by persons with knowledge of or created
4 from information transmitted by persons with knowledge of the
5 information shown and were created at or near the time the
6 information became available.

7 4. Government Exhibit 2028 is a true and correct copy
8 of account statements and other records that were created,
9 kept, and maintained in the ordinary course of business of Bank
10 of America/Merrill Lynch and were created by persons with
11 knowledge of or created from information transmitted by persons
12 with knowledge of the information shown and were created at or
13 near the time the information became available.

14 5. Government Exhibit 2029 is a true and correct copy
15 of account statements and other records that were created,
16 kept, and maintained in the ordinary course of business of
17 Wells Fargo Bank North America, N.A., and were created by
18 persons with knowledge of or created from information
19 transmitted by -- by the way, that's National Association, not
20 North America -- and were created by persons with knowledge of
21 or created from information transmitted by persons with
22 knowledge of the information shown and were created at or near
23 the time the information became available.

24 All that gobbledygook means that they're business
25 records kept in the ordinary course of business of those

IAVHCarl

Pereira - Redirect

1 respective banks.

2 The parties further stipulate and agree that this
3 stipulation may be, and it hereby is, received into evidence as
4 a government exhibit at the trial. That's Government Exhibit 8
5 in evidence.

6 (Government's Exhibit 8 received in evidence)

7 THE COURT: Finally, Government Exhibit 9. It is
8 hereby stipulated and agreed by and between the usual suspects
9 that -- why is this not -- this looks like it's exactly the
10 same. Certainly the first page of this document is exactly the
11 same. Why are you giving me two of them?

12 MR. KOBRE: Your Honor, if we could just have a
13 moment.

14 THE COURT: It's possible you would like to take a
15 look and see how they're different.

16 MR. QUIGLEY: Sorry, your Honor. Maybe we have two
17 copies of the same one. We handed up two copies of the same
18 one.

19 MR. KOBRE: We have one additional set.

20 THE COURT: They're marked with different exhibit
21 stickers. 8 is in evidence.

22 MR. QUIGLEY: Sorry about that.

23 THE COURT: Government Exhibit 1 is hereby stipulated
24 and agreed by and between the usual suspects that:

25 1. Government Exhibits 2000, 2001, and 2002 are true

IAVHCarl

Pereira - Redirect

1 and correct copies of account statements and other records that
2 were created, kept, and maintained in the ordinary course of
3 business of Citibank and were created by persons with knowledge
4 of or created from information transmitted by persons with
5 knowledge of the information shown and were created at or near
6 the time the information became available.

7 2. Government Exhibits 2004, 2005, 2006, and 2006-A
8 are true and correct copies of account statements and other
9 records that were created, kept, and maintained in the ordinary
10 course of business of City National Bank and were created by
11 persons with knowledge of or created from information
12 transmitted by persons with knowledge of the information shown
13 and were created at or near the time the information became
14 available.

15 3. Government Exhibits 2016, 2016-A, and 2016-B are
16 true and correct copies of account statements and other records
17 that were created, kept, and maintained in the ordinary course
18 of business of JPMorgan Chase Bank, N.A., and were created by
19 persons with knowledge of or created from information
20 transmitted by persons with knowledge of the information shown
21 and were created at or near the time the information became
22 available.

23 4. The parties further stipulate and agree that this
24 stipulation may be received into evidence as a government
25 exhibit at trial. And it is Government Exhibit 1.

IAVHCarl

Pereira - Redirect

1 (Government's Exhibit 1 received in evidence)

2 THE COURT: Call your next witness.

3 MR. KOBRE: Your Honor, just before calling the next
4 witness, the government would like to offer at this point a
5 subset of the exhibits that are described in the stipulation,
6 and those are Government Exhibits 2000 and 2000-A, Government
7 Exhibit 2004, 2005.

8 THE COURT: Is someone writing this down?

9 Keep going.

10 MR. KOBRE: 2006, 2006-A, 2016, 2016-A, 2016-B, 2026,
11 2026-A, 2028, and 2029.

12 MR. GOTTLIEB: Your Honor, we would like to check that
13 before responding.

14 THE COURT: They're admitted. You knew they were
15 going to offer them. You should have checked it.

16 MR. GOTTLIEB: Your Honor, actually, we didn't know
17 they were going to stand up after reading the stipulation --

18 THE COURT: There's the list.

19 MR. GOTTLIEB: -- and go forward.

20 THE COURT: Look, there's the list. The jury and I
21 will sit here and wait. OK. You check.

22 MR. GOTTLIEB: Your Honor, thank you.

23 THE COURT: Any objection?

24 MR. JANEY: None, your Honor. Thank you.

25 THE COURT: Thank you. They're admitted.

IAVHCarl

Klein - Direct

1 (Government's Exhibits 2006, 2006-A, 2016, 2016-A,
2 2016-B, 2026, 2026-A, 2028, and 2029 received in evidence)

3 MR. KOBRE: The government calls Harvey Klein.

4 THE COURT: OK. I apologize. Obviously, something's
5 wrong and, really, sitting makes it worse. So I'm going to get
6 up from time to time. Forgive me. If your neck hurts and your
7 back hurts, you get up from time to time too. But I'm not
8 doing it for any particular reason except that when the pain
9 gets really bad, I need to stand up. Thank you.

10 HARVEY KLEIN,

11 called as a witness by the Government,

12 having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KOBRE:

15 Q. Where do you live?

16 A. Monsey, New York.

17 Q. Can I ask you to pull the microphone up.

18 THE COURT: Mr. Klein, it's a little hard to hear.

19 THE WITNESS: Monsey, New York.

20 THE COURT: Monsey. Thank you.

21 Q. What kind of work do you do?

22 A. I manufacture gifts with logos. I have a real estate --

23 THE COURT: I'm right next to you, and I'm having a
24 really hard time hearing you. I know this is nerve-racking.
25 Use the mic. Don't do like here, but use the mic, OK, so we

IAVHCarl

Klein - Direct

1 can all hear you.

2 A. I put logos on things. I have a vending company, I have a
3 real estate company, and I have an energy company.

4 Q. And when you say you "put logos on things," is that through
5 a particular company that you operate?

6 A. King Ventures and King Logo.

7 Q. OK. Those are the names of the companies?

8 A. Yes.

9 Q. Are you engaged in the business of selling tickets to live
10 events?

11 A. No.

12 Q. Have you ever been engaged in that business?

13 A. No.

14 Q. Now, did you receive a subpoena to be in court here today?

15 A. Yes.

16 Q. Are you testifying under a compulsion and immunity order
17 that was issued by the Court?

18 A. Yes.

19 Q. What do you understand that order to do?

20 A. What I say today cannot be held against me.

21 Q. So your testimony today -- can your testimony today be used
22 in a prosecution against you?

23 A. Only if I lie.

24 (Continued on next page)

IAV7CAR2

Klein - Direct

1 Q. And is it your understanding that the immunity order
2 protects you from prosecution using evidence other than the
3 testimony in court here today?

4 A. No.

5 Q. Do you have any agreements with the government?

6 A. No.

7 Q. What is your understanding about why you need immunity to
8 testify?

9 A. Because I lied to the government.

10 Q. And in particular who did you lie to?

11 A. The F.B.I.

12 Q. Any other reasons?

13 A. No.

14 Q. Did you extend loans to individuals?

15 A. Yes.

16 Q. And what did you receive in return for extending -- in
17 particular to who?

18 A. Craig Carton.

19 Q. And what did you receive in return for those loans?

20 A. Cash interest.

21 Q. And what kind of interest? Were they high interest rates?

22 A. Yes.

23 Q. And is it your understanding -- do you have an
24 understanding as to whether those interest rates could be in
25 violation of the law?

IAV7CAR2

Klein - Direct

1 A. Yes.

2 Q. Now, how did you first come to meet Mr. Carton or to
3 communicate with Mr. Carton?

4 A. Through Michael Wright.

5 Q. Who is Michael Wright?

6 A. Michael Wright is someone I became friends with through a
7 different friend, Tommy Genero.

8 Q. And describe what happened. How did it come up that you
9 met Mr. Carton through Mr. Wright?

10 A. Michael Wright called me up, asked me if I would extend a
11 loan together with him to Craig Carton.

12 Q. And did you ultimately extend loans to Mr. Carton?

13 A. Yes.

14 Q. About when did you first lend money to Mr. Carton, what
15 year?

16 A. 2016.

17 Q. And about how many loans in total did you make to
18 Mr. Carton?

19 A. Approximately six.

20 Q. Can you give us a range form the approximate amounts of the
21 loans.

22 A. Between 250 and \$500,000.

23 Q. And could you give us a range for the term for the length
24 of the loans, how long they were extended for.

25 A. Anywhere between seven and 30 days.

IAV7CAR2

Klein - Direct

1 Q. Did you have conversations with Mr. Carton about what your
2 money would be used for, either by email or by phone?

3 A. Yes.

4 Q. And what did Mr. Carton tell you your loans were being used
5 for?

6 A. Casino gambling.

7 Q. Did you also have conversations with Mr. Wright about what
8 the purpose of the loans was?

9 A. Yes.

10 Q. And what did Mr. Wright say?

11 A. Casino gambling.

12 Q. Were any of the loans, to your knowledge, to be used for
13 anything other than casino gambling?

14 A. No.

15 Q. Now, you testified earlier that you received interest from
16 Mr. Carton for the loans?

17 A. Yes.

18 Q. Could you give us a range for the interest rates that you
19 received on these loans.

20 A. Ten to 15 percent.

21 Q. And was that on an annualized basis or just for the period
22 of the loan?

23 A. On a per-loan basis.

24 Q. How, if at all, were the loans documented?

25 A. E-mail.

IAV7CAR2

Klein - Direct

1 Q. Just describe what you mean by that.

2 A. I received an e-mail confirming guarantees from both
3 Mr. Carton and Mr. Wright.

4 Q. And who did those e-mails come from?

5 A. Mr. Carton and/or Mr. Wright.

6 Q. And you said personal guarantees. Is that what you said?

7 A. Yes.

8 Q. Could you just explain what you mean by that?

9 A. That if for whatever reason the loan wasn't paid back, I
10 was able to go after them personally.

11 Q. Did Mr. Carton always repay the loans that you extended?

12 A. Yes.

13 Q. Were they always repaid in a timely manner?

14 A. Most of them.

15 Q. Did it ever happen that it was delayed?

16 A. Yes.

17 Q. But ultimately was that loan that was delayed, was it
18 repaid.

19 A. Yes.

20 Q. Now, in what form was the principal amount of the loans
21 repaid? How was that repaid to you?

22 A. Wire transfer.

23 Q. And what about the interest?

24 A. Cash.

25 Q. Who gave you the cash interest payments?

IAV7CAR2

Klein - Direct

1 A. I would get it from Michael Wright.

2 Q. Now, would you take a look, please, at what's before you in
3 the folder there, Mr. Klein. There are what is marked as
4 Government's Exhibits 1700 through 1715. Just take a flip
5 through those, if you can.

6 I after apologies, not 1700. 1701 through 1715.

7 A. OK.

8 Q. Do you recognize those?

9 A. Yes.

10 Q. What are they just generally describing them?

11 A. E-mails between Michael Wright, Craig Carton and myself.

12 Q. And generally what's the general topic of the e-mails?

13 A. Loan agreements.

14 Q. And are they true and accurate copies of e-mails amongst
15 you, Mr. Wright and Mr. Carton regarding loans that you
16 extended to Mr. Carton?

17 A. Yes.

18 MR. KOBRE: The government offers 1701 through 1715.

19 MR. JANEY: No objection, your Honor.

20 THE COURT: Admitted.

21 (Government Exhibits 1701 through 1715 received in
22 evidence)

23 Q. So let's take a look at some of these e-mails, Mr. Klein.
24 If we can -- Mr. Urbanczyk, if we can please publish for the
25 jury Government Exhibit 1701.

IAV7CAR2

Klein - Direct

1 So, Mr. Klein, this is an e-mail from Michael Wright
2 to you, and it's September 20, 2016, and the subject is
3 Investment -- FWD: Investment. Is this forwarding an e-mail
4 to you?

5 A. Yes.

6 Q. And who sent the original e-mail?

7 A. Craig Carton.

8 Q. And what was the subject of the original e-mail?

9 A. Investment.

10 Q. E-mail reads in the first line, "Allow this e-mail to serve
11 as an agreement between both Harvey and both Craig Carton and
12 Michael Wright. Harvey is investing in project black which is
13 being run by and overseen by Carton and Wright."

14 What did you understand project black to mean here?

15 A. Casino gambling.

16 Q. Do you have an understanding of why it was referred to as
17 project white, why Mr. Carton was referring to it as project
18 black?

19 A. So his wife doesn't find out about it.

20 Q. And, Mr. Carton here refers to Harvey as investing.

21 "Harvey is investing." Was this an investment?

22 A. No.

23 Q. Was your return on the money that you were going to loan or
24 that was being proposed here for you to lend Mr. Carton
25 dependent in any way on how Mr. Carton's gambling performed?

IAV7CAR2

Klein - Direct

1 A. No.

2 Q. Now, as stated in Government Exhibit 1701, how much was
3 this loan for?

4 A. 15 percent.

5 Q. Sorry. What was the amount of the loan, I should have
6 said.

7 A. \$500,000.

8 Q. And as proposed by Mr. Carton in this e-mail, when would
9 you extent the loan? What date?

10 A. September 20, 2016.

11 Q. And when did the loan need to be repaid?

12 A. October 21, 2016.

13 Q. So about a month long loan?

14 A. Yes.

15 Q. And what was Mr. Carton agreeing to pay the interest rate
16 on the loan?

17 A. 15 percent.

18 Q. So how much would that amount to?

19 A. \$75,000.

20 Q. For one month?

21 A. Yes.

22 Q. What did you understand the purpose of this loan was to be?

23 A. Casino gambling.

24 Q. Did you in fact lend Mr. Carton the \$500,000 proposed in
25 this e-mail?

IAV7CAR2

Klein - Direct

1 A. Yes.

2 Q. Let's take a look at Government Exhibit 1702. And if we
3 can just enlarge the top e-mail, all the way down to where it
4 says "sent from my iPhone."

5 So, Mr. Klein, this is another e-mail on September 20,
6 2016. It's from Michael Wright to you -- the top e-mail,
7 rather. Do you see that?

8 A. Yes.

9 Q. And it forwards an e-mail from Mr. Carton?

10 A. Yes.

11 Q. In the e-mail below for the forwarded e-mail from
12 Mr. Carton it says wire info. Do you see that?

13 A. Yes.

14 Q. And what is that? Right below that, several lines below
15 that, what are we looking at there?

16 A. Wiring information.

17 Q. For what?

18 A. For me to wire the loan money to him.

19 Q. And what bank were you directed by Mr. Carton to extend the
20 money to?

21 A. City National Bank.

22 Q. Now, with respect to this loan, did you wire that money to
23 City National Bank?

24 A. Yes.

25 Q. With respect to this particular loan, did Mr. Carton repay

IAV7CAR2

Klein - Direct

1 the loan on October 21, 2016, as he had agreed? I'd ask that
2 you just don't refer to anything. If you don't recall, then
3 that's fine.

4 A. I don't recall.

5 Q. OK. Let's take a look at Government Exhibit 1703. And in
6 particular if we go to page 2 and just enlarge the bottom
7 e-mail.

8 So, this is an e-mail on November 4, 2016 from
9 Mr. Carton to you and michaelawrightnyc@gmail.com. Do you see
10 that?

11 A. Yes.

12 Q. And in this e-mail Mr. Carton is writing to you, "I'm
13 beyond frustrated and I respect that you are as well. I'm not
14 going to insult you with their excuses. I am sending you both
15 \$150K out of my own business account as a sign of good faith
16 and promise to deliver." Do you see that?

17 A. Yes.

18 Q. What did you understand that were Mr. Carton was frustrated
19 about and you would be frustrated as well?

20 A. That he couldn't pay back the loan.

21 Q. Was that the same September 20th loan that we looked at a
22 moment ago?

23 A. Yes.

24 Q. So it was delayed?

25 A. Yes.

IAV7CAR2

Klein - Direct

1 Q. And just going down to the next paragraph it says, "Wire
2 will come from Merrill Lynch and my company is Advance
3 Entertainment." Do you see that?

4 A. Yes.

5 Q. At the time did you have any idea what Advance
6 Entertainment was?

7 A. No.

8 Q. Now, Mr. Carton also wrote, just going back now to the
9 first paragraph in that same e-mail, Mr. Carton had wrote to
10 you, "I am sending you both \$150K out of my on business account
11 as a sign of good faith and promise to deliver." He goes on to
12 say, "When the CNB confirms the wire to you in full we can work
13 out sending the overage back to me."

14 Do you understand what Mr. Carton is saying to you?

15 A. Yes.

16 Q. Can you explain?

17 A. He is going to send me \$150,000 from his own account. He
18 will then send me the balance when City National Bank confirms
19 that they sent the \$500,000, and then I was going to send him
20 back \$150,000.

21 Q. Now, by this date, November 4, 2016, had you already
22 received any of the money returned for your loan?

23 A. No.

24 Q. Let's take a look at Government Exhibit 2004, which is in
25 evidence, and actually if you go to page 1 first and just

IAV7CAR2

Klein - Direct

1 enlarge the top.

2 This is a personal account agreement for City National
3 Bank, and the account holder is who?

4 A. Craig Carton.

5 Q. OK. And if we go to page 18, and if we can just enlarge
6 the fifth line from the bottom, or just highlight it.

7 Do you see there is a beneficiary column on this
8 document?

9 A. Yes.

10 Q. And who is the beneficiary listed in the highlighted
11 portion?

12 A. Harvey Klein.

13 Q. And then there is a transaction date. Do you see that?

14 A. Yes.

15 Q. And what's the transaction date?

16 A. November 4, 2016.

17 Q. And then do you see that there is an amount listed there?

18 A. Yes.

19 Q. And what is the amount that you received as a beneficiary
20 from Mr. Carton on November 4, 2016?

21 A. 250,000.

22 Q. So on November 4, 2016 you received 250,000?

23 A. Yes.

24 Q. And now just going back for a moment to Government Exhibit
25 1703, the second page, and just enlarging the bottom e-mail

IAV7CAR2

Klein - Direct

1 again.

2 So, can you just explain now what you understood
3 Mr. Carton to be referring to when you talk about the 150K
4 coming.

5 A. I got 250,000 in a wire already. There was the balance of
6 250,000 that he was having a problem getting out from City
7 National Bank, so he sent me 150,000 from his own business
8 account. And when he was going to send me the balance, we
9 suggested that I send him the 150,000 back.

10 Q. And did that ultimately happen? Did you send him the
11 \$150,000 back?

12 A. No.

13 Q. What happened?

14 A. I got 150,000, which totals 400,000, and then a few days
15 later I received another wire for 100,000.

16 Q. OK. And then what about the interest?

17 A. I received in cash.

18 Q. OK. And so you say you received 150,000, as is described
19 in this e-mail?

20 A. Yes.

21 Q. I draw your attention to Government Exhibit 2028, and page
22 1 first.

23 If you can just enlarge the upper left-hand corner.

24 Can you read the first line of that for us.

25 A. Advance Entertainment LLC.

IAV7CAR2

Klein - Direct

1 Q. And if we can zoom out, these are records from Merrill
2 Lynch. And if we can go to page 510 of these bank records, and
3 just go to the bottom wire.

4 Now, do you see there is a number listed on the top
5 line there and an amount of this wire transfer?

6 A. Yes.

7 MR. JANEY: Your Honor, these documents speak for
8 themselves. The witness is doing a lot of interpretation and
9 reading of these documents. The documents are fairly
10 straightforward.

11 THE COURT: The objection is overruled.

12 Q. What was the amount of this wire that you received?

13 A. \$150,000.

14 Q. And is there a date next to that?

15 A. November 4, 2016.

16 Q. What was the purpose of this \$150,000 wire transfer to you?

17 A. Pay back a loan.

18 Q. Now we saw that this came from a bank account in the name
19 of Advance Entertainment. Did you have any other business
20 dealings with Advance Entertainment?

21 A. No.

22 Q. Did you know at the time what kind of business Advance
23 Entertainment was in?

24 A. No.

25 Q. Did you know anyone else who was involved in Advance

IAV7CAR2

Klein - Direct

1 Entertainment other than Mr. Carton having told you that he
2 runs it?

3 A. No.

4 Q. And after receiving this \$150,000, did you received the
5 remainder, the remaining \$100,000?

6 A. Yes.

7 Q. Let's take a look at now Government Exhibit 1705.

8 If we can just enlarge the entirety of the e-mail.

9 This is an e-mail several days later on November 10,
10 2016 from Mr. Carton to yourself and Michael. Who is Michael?

11 A. Michael Wright.

12 Q. Just going down to the second paragraph for a moment,
13 Mr. Carton writes, "Glad this finally got done and hope you
14 accept my apologies for how long it look." Is that referring
15 to the loan that you just talked about?

16 A. Yes.

17 Q. And then just jumping down to the last line of the e-mail
18 "And yes..." Can you read that line, please.

19 A. "And yes this weekend in Bimini is an investable trip."

20 Q. Do did understand Mr. Carton is referring to here?

21 A. He was going to Resorts World Casino in Bimini on a
22 gambling trip.

23 Q. And when he says it's an investable trip, what did you
24 understand that to mean?

25 A. I can extend the loan.

IAV7CAR2

Klein - Direct

1 Q. A loan for what purpose?

2 A. Casino gambling.

3 Q. And did you in fact extend another loan for casino gambling
4 to Mr. Carton in December of 2016?

5 A. Yes.

6 Q. Let's take a look at Government Exhibit 1706. This is an
7 e-mail from Mr. Carton to mw@sgroupnyc.com and
8 harvey@kinglogo.com. Who is mw@sgroupnyc.com?

9 A. Michael Wright.

10 Q. And harvey@kinglogo.com, who is that?

11 A. Myself.

12 Q. And the subject of the e-mail is final trip of 2016. Do
13 you see that?

14 A. Yes.

15 Q. Mr. Carton starts the e-mail by saying, "Guys, hope your
16 holiday was great. Wrapping up 2016 with two final events."
17 What did you understand Mr. Carton to be referring to when he
18 says final events?

19 A. Two casino gambling trips.

20 Q. And then he goes on to say, "Ten to 15 percent return no
21 later than December 19." Do you see that?

22 A. Yes.

23 Q. And then just dropping down to the last paragraph,
24 Mr. Carton says, "First trip is Friday ..."

25 Why don't we stop there. What do you understand

IAV7CAR2

Klein - Direct

1 Mr. Carton is referring to?

2 A. He is going to a casino on Friday.

3 Q. Let's take a look at Government Exhibit 1707. First, if we
4 can just focus in on the e-mail below, the bottom e-mail. Now,
5 this is an e-mail on December 1, 2016 at 5:42 p.m. Was this
6 e-mail sent to you?

7 A. Yes.

8 Q. And what generally is Mr. Carton doing in this e-mail?

9 A. It's a loan agreement giving me a personal guarantee.

10 Q. OK. And just reading the first sentence here, Mr. Carton
11 writes, "Allow this letter to serve as a personal promissory
12 note from Craig Carton to Harvey Klein in regards to Mr. Klein
13 making a short term loan of no less than \$500,000 and no more
14 than \$1 million for Mr. Carton's ticket business."

15 Do you see that?

16 A. Yes.

17 Q. Did you ever extend a loan for Mr. Carton to use in a
18 ticket business?

19 A. No.

20 Q. What did you understand Mr. Carton is referring to this
21 loan here, the ticket business?

22 A. To hide the gambling from his wife.

23 Q. Did Mr. Carton ever mention to you a ticket business in
24 connection with your extending gambling loans to him other than
25 in this instance?

IAV7CAR2

Klein - Direct

1 A. We had a conversation once.

2 Q. And just generally what was that regarding?

3 A. If I want to invest in a ticket business.

4 Q. And did you ever agree to that?

5 A. No.

6 Q. Do you remember at what point that was in your extending of
7 loans to Mr. Carton for gambling?

8 A. Sometime during our loan process.

9 Q. But just to be clear, did you ever extend a loan or do any
10 business transactions with Mr. Carton relating to ticketing?

11 A. No.

12 Q. Now, other than that -- other than that time, did
13 Mr. Carton ever mention a ticket business in connection with
14 bank transactions?

15 A. No.

16 Q. Let's take a look at Government Exhibit 1704. If we can
17 just focus first on the bottom e-mail. So here we're rewinding
18 a couple of days. This is November 8, 2016. And Mr. Carton
19 wrote to you, "Bank asking questions about why you guys are
20 sending me the money and if we have a loan agreement. They are
21 being cool and want to green light this type of funding more
22 and more but want to know what the relationship between us is."

23 Do you see that?

24 A. Yes.

25 Q. What do you understand Mr. Carton is saying here?

IAV7CAR2

Klein - Direct

1 A. That he was having problems with the bank.

2 Q. And in particular can you be more descriptive than that?

3 A. That the bank was giving him problems.

4 Q. OK. And was the bank asking questions? Was that your
5 understanding?

6 A. Yes.

7 MR. JANEY: Objection. Leading.

8 THE COURT: The objection is sustained.

9 Q. And then just going down to the next line, Mr. Carton wrote
10 to you, "I have said you guys fund my ticket business which is
11 both cash and wire." Do you see that?

12 A. Yes.

13 Q. Was that true?

14 A. No.

15 Q. And then he goes on to say, "Anything you do or don't want
16 me to say please advise. I went for a walk around the block."

17 Do you have an understanding of what he means by "I
18 went for a walk around the block"?

19 MR. JANEY: Objection. How does he know what is in
20 Mr. Carton's mind?

21 THE COURT: Did you have an understanding, sir, of
22 what you were being told? How did you read this e-mail? What
23 thoughts did it trigger in your mind?

24 THE WITNESS: That he walked out of the bank.

25 Q. And if we can just pull out of this and then just enlarge

IAV7CAR2

Klein - Direct

1 your response to Mr. Carton. This is your response to
2 Mr. Carton on the same day. Do you see that?

3 A. Yes.

4 Q. And what you wrote was, "I'm fine with the truth that we
5 find your ticket business."

6 First of all, is there any misspelling in there?

7 A. "Find" should have been "fund".

8 Q. And was it the truth that you funded Mr. Carton's ticket
9 business?

10 A. No.

11 Q. What was the truth?

12 A. We did casino gambling loans.

13 Q. And if we can just see Mr. Carton's response. Mr. Carton
14 responded same day. Can you read Mr. Carton's response to you,
15 please.

16 A. "Thank you for confirmation I have told them the same."

17 Q. Now, if we can just return to Government Exhibit 1707 and
18 just enlarge the e-mail of December 1, 2016 on the bottom.

19 Was this an e-mail in connection with another loan
20 that you extended to Mr. Carton?

21 A. Yes.

22 THE COURT: What was this?

23 MR. KOBRE: Thank you, your Honor.

24 Q. What was this?

25 A. This was a loan guarantee from Mr. Carton and Mr. Wright.

IAV7CAR2

Klein - Direct

1 Q. And as proposed by Mr. Carton in this e-mail of December 1,
2 2016, how much was the loan for?

3 A. Between 500,000 and \$1 million.

4 Q. And what was the date Mr. Carton was proposing here for you
5 to make this loan?

6 A. December 2, 2016.

7 Q. And by what date was Mr. Carton proposing that the loan
8 would be repaid?

9 A. December 12, 2016.

10 Q. Under the terms of the guarantee that Mr. Carton was
11 extending, what would be the interest rate of the loan?

12 A. 10 percent.

13 Q. And what do you understand the purpose of this loan would
14 be, despite the fact that Mr. Carton refers to --

15 THE COURT: No. Just what did you understand? Stop
16 testifying, Mr. Kobre.

17 MR. KOBRE: Thank you, Judge.

18 Q. What did you understand the purpose of this loan to be?

19 A. Casino gambling loan.

20 Q. And did you in fact extend this loan?

21 A. Yes.

22 Q. If we could take a look at Government Exhibit 2000 in
23 evidence, and if you could just read the name on these records
24 here, the upper left-hand corner.

25 A. Craig Carton.

IAV7CAR2

Klein - Direct

1 Q. And if we can go to page 89 and the fourth entry. Can you
2 read what it says in the top line here, received, what it says
3 after that.

4 MR. JANEY: Objection, your Honor. It speaks for
5 itself.

6 THE COURT: Read the e-mail, sir.

7 A. December 2, 2016.

8 Q. And who is the beneficiary?

9 A. Craig Carton.

10 Q. And what is the amount?

11 A. \$500,000.

12 Q. And who is the originator?

13 A. Myself.

14 Q. Now, returning back now to Government Exhibit 1707, if we
15 can enlarge the top e-mail.

16 This is an e-mail from you to Mr. Carton on December
17 11, 2016. What is the purpose of this e-mail?

18 A. I was giving him wire instructions where to send the loan
19 money back to.

20 Q. OK. We can take that down.

21 Did Mr. Carton repay the \$500,000 as you requested in
22 your e-mail December 11?

23 A. Yes.

24 Q. And if we can take a look at Government Exhibit 2006-A,
25 page 3, and just enlarge the third -- or at least highlight the

IAV7CAR2

Klein - Direct

1 third one from the bottom.

2 OK. If I can just ask, first of all, this is titled
3 wire transfers. Do you see that?

4 A. Yes.

5 Q. If you can just read under "debit party name" for the
6 highlighted line there.

7 A. Advance M Ltd.

8 Q. And who is listed under beneficiary?

9 A. Myself.

10 Q. There is a column there that is titled tran date. Can you
11 read the entry.

12 A. December 12, 2016.

13 Q. And what is the amount?

14 A. \$500,000.

15 Q. What did you understand the purpose of this -- why were you
16 receiving this \$500,000 on December 12, 2016?

17 A. Pay back a loan.

18 Q. What kind of loan?

19 A. Casino gambling.

20 Q. Who was -- pay back of a loan to whom?

21 A. Myself.

22 Q. From whom?

23 A. Mr. Carton.

24 Q. If we can go to Government Exhibit 1708, and if we can just
25 enlarge the bottom e-mail.

IAV7CAR2

Klein - Direct

1 This is an e-mail from Mr. Carton to you, and can you
2 just read the body of the e-mail.

3 A. "Should be safely in your account."

4 Q. What do you understand Mr. Carton is referring to here?

5 A. The wire transfer of the \$500,000 was paid back.

6 Q. And if we can now just go up to the next e-mail, your
7 response to Mr. Carton.

8 A. "Wire was received."

9 Q. And what date was that e-mail?

10 A. December 12, 2016.

11 Q. If we can go now to Mr. Carton's response to that. Can you
12 read that for us, please?

13 A. "Thank you. Nice and smooth. I will see MW by end of week
14 for the paper transfer."

15 Q. That's fine. What did you understand MW to be referring
16 to?

17 A. Michael Wright.

18 Q. And you are saying I will see Michael Wright by the end of
19 the week -- I'm sorry. Mr. Carton is saying I will see Michael
20 Wright by the end of the week for the paper transfer. What did
21 you understand him to be referring to by paper transfer?

22 A. Meaning 50,000 cash interest.

23 Q. And interest on what?

24 A. The loan.

25 Q. Is that the loan that we just talked about?

IAV7CAR2

Klein - Direct

1 A. Yes.

2 Q. And if we can just now go to that top e-mail and enlarge
3 that.

4 So this is an e-mail from Mr. Carton to you a little
5 bit later on the same day. The subject is Re: Wire. And
6 Mr. Carton writes, "I forgot your dates investment wise but
7 would be remiss if I didn't offer you first dibs. I'm going to
8 Atlantis and then Bimini December 26 through January 1. Pay
9 back is January 10th. 10 percent." Do you see that?

10 A. Yes.

11 Q. What do you understand Mr. Carton to be referring to when
12 he talked about Atlantis?

13 A. He was going to gamble at the Atlantis and at Resorts World
14 Bimini.

15 Q. Now, do you recall if you ultimately invested in or,
16 rather, you loaned him money as he requested here?

17 A. I don't remember, but I don't think so.

18 Q. Now turning to April of 2017 --

19 We can take this down.

20 Did you extend another gambling loan to Mr. Carton in
21 April of 2017?

22 A. Yes.

23 Q. Let's take a look at Government Exhibit 1709. Take a look
24 at the bottom e-mail first. This is an e-mail on April 12,
25 2017 from Mr. Carton to you, and he says, "Hope you are both

IAV7CAR2

Klein - Direct

1 well." Who is he referring to when he says "both"?

2 A. Myself and Michael Wright.

3 Q. OK. He says, "Taking a trip to Hollywood on Friday and
4 wanted to see if you were interested. Same offer as always."

5 First of all, what did you understand he was referring to when
6 he talked about Hollywood?

7 A. Hard Rock Hotel and Casino in Hollywood, Florida.

8 Q. And he goes on to say, "Can take up to \$1 and return the
9 following Monday." What do you understand he is saying there?

10 A. He would borrow up to \$1 million.

11 Q. And let's just scroll up, if we can, to the second e-mail
12 on the page. You responded, "I am away for Pesach, but can see
13 if I can figure something out tomorrow. 15 percent for seven
14 days with 2 personal guarantees." Do you see that?

15 A. Yes.

16 Q. What did you mean by 15 percent for seven days with two
17 personal guarantees?

18 A. 15 percent interest for a 7 day loan with two personal
19 guarantees with Craig Carton and Michael Wright.

20 Q. And referring back now to the top e-mail. This is an
21 e-mail from Mr. Carton to you replying to your e-mail. Can you
22 read that, the body of the e-mail, please?

23 A. "Let's agree on 10 percent for seven days and I'll send the
24 standard e-mail ASAP."

25 Q. And what did you understand your money was going to be used

IAV7CAR2

Klein - Direct

1 for should you agree to extend this loan?

2 A. Casino gambling.

3 Q. And then there is some wiring information. What do you
4 understand the purpose of that to be?

5 A. Where I should be wiring the money.

6 Q. If we could take a look at Government Exhibit 1710 and just
7 focusing on the e-mail that's at 3:52 a.m. This is an e-mail
8 from Mr. Carton to you on April 13, 2017. What are we looking
9 at here?

10 A. The loan agreement between Craig Carton and myself.

11 Q. And as stated in this e-mail, how much would this loan be
12 no less than?

13 A. \$500,000.

14 Q. And by what date would you provide the loan?

15 A. April 13, 2017.

16 Q. And when was Mr. Carton proposing the loan would be repaid?

17 A. Seven business days.

18 Q. At what interest rate?

19 A. 10 percent.

20 Q. And what did you understand the purpose of this loan to be?

21 A. Casino gambling.

22 Q. Did you lend money to Mr. Carton as he was requesting here?

23 A. Yes.

24 Q. Let's take a look at Government Exhibit 2000, page 92. Or
25 actually if we could just stay on page 1 for a moment. Could

IAV7CAR2

Klein - Direct

1 you just read the name on these account records.

2 A. Craig Carton.

3 Q. And if we go to page 92 now and focus in on the fourth
4 entry down from the top of the page. Could you read the date
5 after the word "received"?

6 A. April 14, 2017.

7 Q. And beneficiary?

8 A. Craig Carton.

9 Q. And the amount?

10 A. \$500,000.

11 Q. And the originator?

12 A. Myself.

13 Q. So how much was this loan for?

14 A. \$500,000.

15 Q. And if we can now go to Government Exhibit 1712 and just
16 focusing on the bottom e-mail. This is an e-mail from somebody
17 named Javier Corrales at citi.com to Mr. Carton. Is this
18 e-mail ultimately forwarded to you?

19 A. Yes.

20 Q. And the subject of the e-mail is Harvey Klein 500, and the
21 e-mail says, "Craig, the wire for Harvey Klein has been sent
22 and approved."

23 What did you understand this was referring to?

24 A. Paying back the loan of \$500,000.

25 Q. If we could just zoom out and just enlarge the next e-mail

IAV7CAR2

Klein - Direct

1 up. I'm sorry, two items up.

2 This is an e-mail in response to the e-mail that we
3 just looked at from the person at Citibank. And who are you
4 responding to here?

5 A. Craig Carton.

6 Q. And can you just read that.

7 A. "No wire arrived. Can you please request a Fed tracking
8 number."

9 Q. But at the end of the day did you ultimately receive
10 repayment on this loan?

11 A. Yes.

12 Q. We can take that down.

13 Now, Mr. Klein, approximately when was the last time
14 you extended a loan to Mr. Carton?

15 A. May of 2017.

16 Q. And if we can take a look at Government Exhibit 1713, and
17 just enlarge that e-mail.

18 This is an e-mail from Mr. Carton to you and Mr.
19 Wright on May 2, 2017. Do you see that?

20 A. Yes.

21 Q. What are we looking at here?

22 A. The loan agreement.

23 Q. What's the subject of the e-mail?

24 A. Biz.

25 Q. And Mr. Carton writes over here in the first line, "Allow

IAV7CAR2

Klein - Direct

1 this e-mail to represent a business agreement in which Harvey
2 Klein is investing in a legal business opportunity presented to
3 him by Craig Carton and Michael Wright." What was the legal
4 business opportunity that Mr. Carton was referring to here?

5 A. Casino gambling.

6 Q. And as proposed by Mr. Carton in this May 2, 2017 e-mail,
7 how much was the loan going to be for?

8 A. \$500,000.

9 Q. And what date would extend the loan?

10 A. May 3, 2017.

11 Q. And by what date would Mr. Carton be required to repay the
12 loan.

13 A. May 11.

14 Q. Under the terms of that Mr. Carton was proposing here, what
15 would you be receiving in response or in exchange for making
16 this loan?

17 A. 10 percent cash interest.

18 Q. And did you ultimately loan Mr. Carton the \$500,000 as he
19 proposed here?

20 A. I believe so.

21 Q. And were you ultimately repaid for this loan?

22 A. Yes.

23 Q. Take a look at Government Exhibit 1714. Just enlarge the
24 e-mail so it's easier to see.

25 This is an e-mail from you to Mr. Carton; the subject

IAV7CAR2

Klein - Direct

1 is loan wiring instructions. And what's the date of this
2 e-mail?

3 A. May 9, 2017.

4 Q. So was this after you extended the loan that we just looked
5 at?

6 A. Yes.

7 Q. And you write here in this e-mail to Mr. Carton, "Hi Craig,
8 I hope you're doing well. I must have the funds back in my
9 account by Thursday morning for a closing. Let's see if we can
10 get it done correctly and the day it's actually due back for
11 once. LOL." What were you referring to there?

12 A. Getting the loan paid back on time.

13 Q. Is this the last loan that you extended to Mr. Carton?

14 A. Yeah.

15 Q. And why did you stop?

16 A. I was contacted by the F.B.I.

17 Q. What happened when you were contacted by the F.B.I.? What
18 did the F.B.I. want?

19 A. They asked me questions.

20 Q. They asked you questions?

21 A. Yes.

22 Q. About when was that?

23 A. May.

24 Q. Of what year?

25 A. 2017.

IAV7CAR2

Klein - Direct

1 Q. And when you were first approached by the F.B.I., were you
2 asked whether you received interest on loans that you extended
3 to Mr. Carton?

4 A. Yes.

5 Q. And what did you say?

6 A. No.

7 Q. And was that true?

8 A. No.

9 Q. Were you also asked how Mr. Carton -- if you knew how
10 Mr. Carton was using the money that you loaned him?

11 A. Yes.

12 Q. And what did you tell the F.B.I.?

13 A. I said I don't know what he uses the funds for.

14 Q. Is that true?

15 A. No.

16 Q. And were you also asked about how many times you had loaned
17 Mr. Carton money?

18 A. Yes.

19 Q. And what did you tell the F.B.I.?

20 A. Two to three times.

21 Q. And was that a truthful answer?

22 A. No.

23 Q. Why did you lie to the F.B.I.?

24 A. Because I didn't want to get tripped up.

25 Q. Did you ultimately correct those misstatements and lies

IAV7CAR2

Klein - Direct

1 when you spoke with the government?

2 A. Yes.

3 Q. Now, if we can post Government Exhibit 1715. If we can
4 just enlarge that. Or actually I'm sorry to trouble you. If
5 we can just enlarge the bottom e-mail.

6 Now, this is an e-mail on May 21, 2017 from Mr. Carton
7 to you, and it says, "Harvey, can you kindly send me the
8 below." It says, "Dear Craig." If you just read that e-mail
9 to us?

10 A. "Please allow this note to confirm that based on your
11 recent payment, Tier One tickets has no further obligation to
12 offer me or to sell me ticket to any show, event or concert
13 that it may have access to. Furthermore, I have no claim to or
14 for any future ticket opportunities that may arise through Tier
15 One Tickets professionally or Mr. Carton personally. As
16 always, it was a pleasure doing business with you, and I wish
17 you and your new partners the very best."

18 Now, when you received this e-mail, did you understand
19 what Mr. Carton was referring to here?

20 A. No.

21 Q. Had you ever heard of Tier One Tickets before receiving
22 this e-mail?

23 A. No.

24 Q. Had you ever been involved in any kind of ticket business
25 with Mr. Carton?

IAV7CAR2

Klein - Direct

1 A. No.

2 Q. And so if we can just now go to your response to this
3 e-mail. You responded to Mr. Carton on May 22, 2017, and you
4 wrote, "I'm not sure what your e-mail is saying. It sounds
5 very lawyerese. Please explain."

6 Can you just explain what you're responding here to
7 Mr. Carton.

8 A. I'm not sure what he wanted from me.

9 Q. Now, this e-mail that you received from Mr. Carton on May
10 22, 2017, was that before or after you were contacted by the
11 F.B.I.?

12 A. After.

13 Q. And did you subsequently contact Mr. Carton to get some
14 explanation for this e-mail?

15 A. Yes.

16 Q. And how did you contact him? By what means?

17 A. Phone.

18 Q. And did you record a phone call with Mr. Carton?

19 A. Yes.

20 Q. And did you do that of your own volition, or were you asked
21 by the government?

22 A. I did it on my own.

23 Q. If we can hand up -- if you can take a look at what's in
24 front of you marked Government Exhibit 1700. Do you have that?

25 A. Yes.

IAV7CAR2

Klein - Direct

1 Q. What is it?

2 A. Recorded phone call. It's a CD.

3 Q. OK. It's a disk?

4 A. Yes.

5 Q. And what's on the disk?

6 A. A recorded phone call.

7 Q. OK. And does it also have a transcription that goes along
8 with the recorded phone call?

9 A. Yes.

10 Q. And prior to coming to court here today, did you have an
11 opportunity to review first of all the recorded phone call to
12 see if it accurately reflects the call that you recorded with
13 Mr. Carton?

14 A. Yes.

15 Q. Did you also have an opportunity to review the transcript
16 of the call, the written transcript, before you came to court
17 here today?

18 A. Yes.

19 Q. And does the transcript accurately reflect what is being
20 said on the phone call?

21 A. Yes.

22 Q. Both by yourself and Mr. Carton?

23 A. Yes.

24 MR. KOBRE: Your Honor, the government offers
25 Government Exhibit 1700.

IAV7CAR2

Klein - Direct

1 MR. JANEY: No objection.

2 THE COURT: Admitted.

3 (Government Exhibit 1700 received in evidence)

4 MR. KOBRE: And, your Honor, at this time we would ask
5 to play Government Exhibit 1700 for the jury.

6 THE COURT: Go ahead.

7 (Audio played)

8 Q. First of all, if I could just ask, you saw CC and HK. Who
9 is speaking when the audio said CC.

10 A. Craig Carton.

11 Q. OK. And who was speaking when the transcript said HK?

12 A. Myself.

13 Q. And when Mr. Carton said at the end of the call there, no,
14 you have nothing to do with the ticketing business, is that
15 true?

16 A. Yes.

17 Q. Now, are you familiar with an individual named Dan Cortez?

18 A. Yes.

19 Q. Who is Mr. Cortez?

20 A. He was a host at Sugar House Casino in Philadelphia,
21 Pennsylvania.

22 Q. Other than lending money for Mr. Carton to gamble with, did
23 you have any other business dealings with Mr. Carton?

24 A. No.

25 Q. Did you invest any money in any business of Mr. Carton?

IAV7CAR2

Klein - Direct

1 A. No.

2 Q. Did you ever have any business deals or other business
3 relationship with Mr. Carton relating to the sale of tickets to
4 concerts or live events?

5 A. No.

6 Q. Did you ever invest money with Mr. Wright or Mr. Carton to
7 fund the purchase of tickets to a concert or live events?

8 A. No.

9 Q. Prior to being asked questions in connection with this
10 investigation, had you ever heard of a company called AEG Live
11 LLC or AEG Presents?

12 A. No.

13 Q. Are you familiar with an individual named Gary Gersh?

14 A. No.

15 Q. Are you familiar with an individual named Joseph Meli?

16 A. No.

17 Q. Had you ever heard that name prior to in the course of this
18 investigation?

19 A. No.

20 Q. Are you familiar with a company -- other than having sent
21 or received money in connection with your loans to
22 Mr. Carton -- have you ever heard of a company called Advance
23 Entertainment?

24 A. No.

25 Q. Are you familiar with a company named BSE Global, Brooklyn

IAV7CAR2

Klein - Direct

1 Sports and Entertainment?

2 A. No.

3 Q. Are you familiar with an individual named Fred Mangione?

4 A. No.

5 Q. Are you familiar with an individual name Brett Yormark?

6 A. No.

7 MR. KOBRE: Nothing further.

8 THE COURT: How much cross are we going to have of
9 this witness?

10 MR. JANEY: Sorry, your Honor?

11 THE COURT: How much cross are we going to have of
12 this witness?

13 MR. JANEY: Substantial, your Honor.

14 THE COURT: OK. Let's take a ten minute break now,
15 folks. Don't discuss the case. Keep an open mind.

16 (Recess)

17 (Continued on next page)

18

19

20

21

22

23

24

25

IAVHCar3

1 (Jury not present)

2 THE COURT: Case on trial continued. The parties are
3 present. The jurors are not present.

4 Yes.

5 MR. GOTTLIEB: Your Honor, may I just address
6 something very briefly?

7 THE COURT: Yes.

8 MR. GOTTLIEB: Your Honor, I just want to respond to
9 the issue that arose this morning when I asked just to let me
10 check something. I want your Honor to understand when that
11 occurred, the only reason why I asked for it is we had
12 stipulations. There were a lot of numbers being thrown out.
13 As an attorney I felt obligated to make sure that the numbers
14 were on the stipulation that were received. That was the end
15 of it.

16 Now, the only reason why I'm raising it, your Honor,
17 is that the reaction toward me in front of the jury can't do
18 anything else, I fear, than have a jury think there's something
19 wrong here, and that potentially hurts my client. So I raise
20 it so that your Honor understands I sure the heck was not
21 trying to delay anything.

22 THE COURT: Thank you, Mr. Gottlieb.

23 Would you bring in the jurors, please.

24 (Continued on next page)
25

IAVHCar3

Klein - Cross

1 (Jury present)

2 THE COURT: Folks, this is like very weird, but they
3 found me a stool that I can prop myself up against. This is
4 all new to me, so I feel like I'm looming over everything. So
5 pay no attention to me.

6 Who's going to cross?

7 MR. JANEY: Your Honor.

8 THE COURT: Mr. Janey.

9 CROSS-EXAMINATION

10 BY MR. JANEY:

11 Q. Mr. Klein, good morning.

12 A. Good morning.

13 Q. In your testimony this morning, you stated that you have no
14 agreements with the government. Do you recall that?

15 A. Yes.

16 Q. Do you recall meeting with prosecutors in this case on
17 October 16, 2018?

18 A. I don't recall the exact dates.

19 Q. Do you recall meeting with prosecutors in this case in
20 October of 2018?

21 A. Yes.

22 Q. Do you recall that prior to speaking with the prosecutors
23 in this case at that meeting, you were provided a proffer
24 agreement? Do you recall that?

25 A. Yes.

IAVHCar3

Klein - Cross

1 Q. Isn't it your understanding that in connection with that
2 meeting in October of 2018, with that proffer agreement, any
3 statements that you made during that meeting would not, in sum
4 and substance, be held against you in any criminal prosecution?

5 A. Yes.

6 Q. And you signed that proffer agreement, correct?

7 A. Yes.

8 Q. Is it fair to say that on that date you effectuated an
9 agreement with the government?

10 A. Yes.

11 Q. Isn't it then fair to say that your testimony this morning
12 when you stated that you don't have an agreement with the
13 government, that's not correct?

14 A. I didn't understand this question this morning, then, but
15 yes.

16 Q. You have immunity for your testimony today, isn't that
17 correct?

18 A. To a certain degree.

19 Q. In fact, it was ordered by this Court that no testimony or
20 information can be compelled as against you or any information
21 directly or indirectly derived from your testimony or other
22 information may be used against you in any criminal case except
23 a prosecution for perjury, correct?

24 A. Yes.

25 Q. You testified earlier upon the government's examination of

IAVHCar3

Klein - Cross

1 you that you lied about the loans, correct?

2 A. Yes.

3 Q. You further testified that you lied about the interest
4 rates on the loans, correct?

5 A. Yes.

6 Q. And when the government asked you the reason for the lies,
7 you stated that you didn't want to get caught, correct?

8 A. Yes.

9 Q. What did you mean by that?

10 A. For not paying taxes on the loans.

11 Q. Did you pay taxes on the loans, Mr. Klein?

12 A. 2017 taxes have been paid.

13 Q. That's not my question.

14 THE COURT: Have you paid all the taxes that were due
15 on the money you made on the loans?

16 THE WITNESS: I advised my accountant to look into
17 2016. He suggested he will review it after October 15.

18 Q. Did you pay taxes on the loans, Mr. Klein, yes or no?

19 A. Yes, 2017; no, 2016.

20 THE COURT: The answer is some, not necessarily all?

21 THE WITNESS: Correct.

22 THE COURT: Fine. Move on.

23 Q. So for your testimony today, the government, in effect,
24 forgives all that, correct?

25 MR. KOBRE: Objection.

IAVHCar3

Klein - Cross

1 THE COURT: Objection's sustained.

2 Q. Mr. Klein, you are an executive, in fact, the CEO at a
3 utility company called HICO, H-I-C-O, correct?

4 A. I was.

5 Q. When did you cease to be an executive at HICO, Mr. Klein?

6 A. The company was sold March 1, 2018.

7 Q. That company was based in Monsey, New York, correct?

8 A. Yes.

9 Q. And it had operations in New Jersey and Pennsylvania,
10 correct?

11 A. Yes.

12 Q. When you operated those businesses in those states, you
13 operated under a license, correct?

14 A. Yes.

15 Q. When did you first speak with the government?

16 A. May of 2017.

17 Q. I'm sorry. You just said. When did you cease to be an
18 executive at HICO?

19 A. March 1, 2018.

20 Q. Isn't it true that in February of 2015, your company was
21 the subject of an enforcement action by the New York Attorney
22 General Bureau of Consumer Fraud?

23 MR. KOBRE: Objection. Relevance.

24 THE COURT: Overruled.

25 A. Yes.

IAVHCar3

Klein - Cross

1 Q. And the New York State attorney general reached a finding
2 in February of 2015 that your company engaged in "deceptive
3 business practices" from at least 2011, misleading consumers
4 about savings and prices on electric services they would
5 receive from your company, correct?

6 MR. KOBRE: Objection. Hearsay.

7 THE COURT: Overruled.

8 A. That was an allegation.

9 Q. In fact, the New York State attorney general alleged that
10 "HICO made false and misleading savings and price claims on its
11 website, in its door-to-door sales, and through its marketing
12 contractors performing telemarketing and in-person
13 solicitations," correct?

14 MR. KOBRE: Objection. Hearsay.

15 THE COURT: Overruled. And stop making that
16 objection, Mr. Kobre.

17 MR. KOBRE: Yes, Judge.

18 A. That was an allegation as well.

19 Q. For its deceptive conduct, the New York State attorney
20 general sanctioned HICO \$1,250,000 to be used by the New York
21 Attorney General's Office for restitution, moneys reimbursed to
22 certain current and former HICO consumers, correct?

23 A. Yes.

24 Q. In terms of the settlement of that enforcement action,
25 there was a formal written agreement by the New York attorney

IAVHCar3

Klein - Cross

1 general, correct?

2 A. Yes.

3 Q. Requiring payment of these moneys, correct?

4 A. Yes.

5 Q. And imposing conditions on you and HICO in order to stay in
6 business, correct?

7 A. Yes.

8 Q. As the CEO and owner of HICO, you were required to sign
9 that agreement, correct?

10 A. Yes.

11 Q. In May of 2014, the New Jersey state attorney general
12 brought an action against you personally and your company
13 alleging that you guaranteed consumers monthly savings of up to
14 10 percent for the first six months on their monthly electric
15 and utility bills, then failed to deliver those savings,
16 correct?

17 A. That was an allegation.

18 Q. In January of 2015, you entered into a consent judgment
19 with the New Jersey state attorney general, correct?

20 A. Yes.

21 Q. And that consent judgment required that you pay
22 \$2.1 million to the state of New Jersey, correct?

23 A. Yes.

24 Q. I'm sorry. I didn't hear you.

25 A. Yes.

IAVHCar3

Klein - Cross

1 Q. You were required to sign that agreement, correct,
2 Mr. Klein?

3 A. Yes.

4 Q. Isn't it fair to say that you don't need any further legal
5 troubles, Mr. Klein?

6 A. Correct.

7 MR. KOBRE: Objection.

8 THE COURT: The objection's overruled.

9 Q. In February of 2015, the Pennsylvania Public Utility
10 Commission brought a complaint against your company alleging
11 multiple violations of Pennsylvania law and Pennsylvania
12 utility commission, Public Utility Commission, orders and
13 regulations whereby consumers were misled and deceived by you
14 as to the price they would pay for their electricity, correct?

15 A. That was an allegation.

16 Q. In fact, your license in Pennsylvania was subject to an
17 18-month conditional probation period when it was first
18 instituted based on the high number of complaints that
19 Pennsylvania received from New York in connection with your
20 business, correct?

21 A. No.

22 Q. The Pennsylvania Public Utility Commission reached findings
23 against you, Mr. Klein, correct?

24 A. Yes.

25 Q. Among those findings, the Pennsylvania commission

IAVHCar3

Klein - Cross

1 specifically found that you, Mr. Klein, made the business
2 decisions to intentionally overbill approximately 5,700
3 customers enrolled in the guaranteed savings plan during the
4 months of January to April '14 in what was called the polar
5 vortex by approximately \$1.8 million, correct?

6 A. Correct, that was industry-wide.

7 Q. For these violations and your intentional conduct, you and
8 HICO were ordered to pay the Commonwealth of Pennsylvania a
9 civil penalty in the amount of \$1,836,125, correct?

10 A. That is pending in the state Supreme Court.

11 THE COURT: What do you mean by that, sir?

12 THE WITNESS: We filed an appeal. The Supreme Court
13 took our case, and we're waiting for a judgment.

14 Q. You testified earlier that you met Mr. Carton through
15 Michael Wright, correct?

16 A. Yes.

17 Q. You came to know Michael Wright through a friend of Michael
18 Wright's wife, correct?

19 A. Through Tommy Gennaro.

20 Q. When you came to eventually meet Michael Wright, he
21 introduced you to Mr. Carton, correct?

22 A. Yes.

23 Q. As you testified, there came a time when you gave
24 Mr. Carton money for gambling, correct?

25 A. Correct.

IAVHCar3

Klein - Cross

1 Q. And there isn't a single instance when you loaned
2 Mr. Carton money for gambling that you did not also require
3 that Michael Wright personally guarantee that money, correct?

4 A. Correct.

5 Q. You gave him these loans in order to make a return,
6 correct?

7 A. Correct.

8 Q. A handsome profit, correct?

9 A. Correct.

10 Q. Approximately 10 to 15 percent, correct?

11 A. Correct.

12 Q. And you at the time were aware that the interest rates you
13 were charging on these loans might be inconsistent with law,
14 correct?

15 A. That was what was offered to me by Mr. Wright and
16 Mr. Carton.

17 Q. You extended the loans, correct?

18 A. Yes.

19 Q. You required that the interest payments be made, correct?

20 A. Yes.

21 Q. You accepted the interest payments, correct?

22 A. Yes.

23 Q. And often you received the interest payments in cash,
24 correct?

25 A. Correct. That's how it was offered to me.

IAVHCar3

Klein - Cross

1 Q. That wasn't my question.

2 You received the money in cash, correct?

3 A. Correct.

4 Q. Sometimes in a bag delivered to you personally, correct?

5 A. Correct.

6 Q. At times when Mr. Carton asked whether you wished for the
7 money to be delivered to you via wire transfer, you insisted
8 that the money be handed to you in cash, correct?

9 A. I don't recall that.

10 Q. Drawing your attention to December 2, 2016. We're in
11 December 2, 2016, Mr. Klein. You wired \$500,000 to
12 Mr. Carton's personal Citibank account, correct?

13 A. Correct.

14 Q. And you wired that from Wells Fargo, correct?

15 A. Correct.

16 Q. The entity by which you made the transfers is an entity
17 called King Ventures LLC, correct?

18 A. Correct.

19 Q. And you agreed to a payback period of January 10, correct?

20 A. Correct.

21 Q. You had no reason to question that Mr. Carton used these
22 funds for the reasons that you agreed, correct?

23 A. Correct.

24 Q. And you knew that he would use the money for gambling
25 because you had friends in the industry who watched him,

IAVHCar3

Klein - Cross

1 correct?

2 A. I never watched him.

3 Q. Well, that's not my question.

4 You had friends in the casino industry, correct,
5 Mr. Klein?

6 A. I sell to the casino industry, yes.

7 Q. You have friends in the casino industry, Mr. Klein?

8 A. Yes.

9 Q. And at times when Mr. Carton went to gamble with money that
10 you provided to him, you called your friends at the casinos,
11 correct?

12 A. Incorrect.

13 Q. You called your friends to be sure that Mr. Klein was
14 gambling, correct?

15 THE COURT: Mr. Carton.

16 A. Mr. Carton.

17 Q. Mr. Carton.

18 A. No, incorrect.

19 Q. You remember meeting with the FBI and the prosecutors in
20 this case prior to this testimony today?

21 A. Yes.

22 Q. Do you recall telling them that at places like Seminole
23 Hard Rock that you called your friends at that casino to ensure
24 that Mr. Carton was gambling?

25 A. I did not call. I was personally at the Seminole Hard Rock

IAVHCar3

Klein - Cross

1 after one of Craig Carton's trips. And I asked if he was there
2 in the past, and the answer was yes.

3 Q. So you were assured that Mr. Carton was gambling, weren't
4 you, Mr. Klein?

5 A. Yes.

6 Q. Drawing your attention to April 2017, you wired Mr. Carton
7 \$500,000, correct?

8 A. Correct.

9 Q. And earlier, going back to 2016, earlier you testified that
10 in November of 2016, Mr. Carton was delayed somewhat in
11 repaying you the loan that you made him at that time. Do you
12 recall that testimony?

13 A. Correct.

14 MR. JANEY: The Defendant's Exhibit 115, please, shown
15 only to the Court and counsel and the witness.

16 Q. Mr. Klein --

17 A. Yes.

18 Q. -- is this an email from you to Craig Carton and Michael
19 Wright on November 4, 2016?

20 A. Yes.

21 MR. JANEY: Your Honor, at this time we move to admit
22 115 into evidence.

23 MR. KOBRE: Objection. Hearsay.

24 THE COURT: You're offering it? Where is it?

25 MR. JANEY: I understand. I withdraw the motion, your

IAVHCar3

Klein - Cross

1 Honor.

2 THE COURT: OK. We offer exhibits; we don't make
3 motions. But I'll be happy to rule if I can see it.

4 MR. JANEY: If I may approach, your Honor?

5 THE COURT: That would be the easiest way. It's the
6 old-fashioned way.

7 MR. JANEY: Thank you, your Honor.

8 THE COURT: I actually like the old-fashioned way.

9 The objection's sustained.

10 BY MR. JANEY:

11 Q. In November of 2016 when the payment was delayed, you
12 testified about this earlier, you indicated that the issue was
13 that Mr. Carton had a problem with his bank. Do you recall
14 that testimony?

15 A. Yes.

16 Q. Isn't it, in fact, the case that there came a point where
17 Mr. Carton forwarded to you a letter from City National Bank
18 stating what the problem was, correct?

19 A. Yes.

20 Q. And what is your recollection as to what the bank in its
21 letter explained as the problem?

22 A. I don't recall.

23 Q. When you made loans to Mr. Carton, you knew that your funds
24 might be pooled with others, correct, Mr. Klein?

25 A. No -- I'm sorry. Together with Michael Wright, yes.

IAVHCar3

Klein - Cross

1 Q. Well, to clarify, you knew that Mr. Carton might be
2 gambling for other investors at the same time as he's gambling
3 the money that you loaned him, correct?

4 A. I wasn't an investor. I made a loan.

5 Q. You were aware that if others loaned Mr. Carton money to
6 gamble, that your moneys would be mixed in with those, correct?

7 MR. KOBRE: Objection. Relevance.

8 THE COURT: Objection's sustained.

9 Q. Did you have an understanding that Mr. Carton was only
10 gambling with the loan proceeds from you, Mr. Klein?

11 MR. KOBRE: Same objection.

12 THE COURT: Objection's sustained.

13 Q. When you made the loans to Mr. Carton, you didn't request a
14 formal legal agreement, did you, Mr. Klein?

15 A. Correct.

16 THE COURT: By "formal legal agreement," do you mean a
17 written agreement?

18 MR. JANEY: Yes, your Honor.

19 Q. You did not request a formal written legal agreement,
20 correct, Mr. Klein?

21 THE COURT: It's the word "legal" that I'm objecting
22 to, because it's perfectly possible to have a legal unwritten
23 agreement.

24 MR. JANEY: Yes. Withdrawn.

25 Q. You did not request a formal written agreement, did you,

IAVHCar3

Klein - Cross

1 Mr. Klein?

2 A. I did.

3 Q. In what form did you require the agreement?

4 A. Via email.

5 Q. At any time did you request that the agreement be in a form
6 other than email?

7 A. No, not that I can recall.

8 Q. Did you have a preference for the form of the agreement
9 being an email?

10 MR. KOBRE: Objection. Relevance.

11 THE COURT: Overruled.

12 A. I wasn't picky as to how I got it. They could have sent it
13 by fax. They chose email.

14 Q. Earlier you testified that Mr. Carton was concerned about
15 his wife finding out about the loans. Do you recall that
16 testimony?

17 A. Yes.

18 Q. And the loans specifically in connection with gambling,
19 correct?

20 A. Correct.

21 Q. Isn't it your understanding that that was Mr. Carton's
22 concern, for the reason that he wanted to keep the loans quiet,
23 for lack of a better word?

24 A. I don't understand your question.

25 Q. Did you have an understanding that -- well, withdrawn.

IAVHCar3

Klein - Redirect

1 Did there come a time when Mr. Carton asked for the
2 discussions about the loans to be discussed over email in code
3 terms?

4 A. Yes -- he didn't ask for it, no.

5 Q. How did you come to the understanding of that?

6 A. When I would receive emails confirming the loans, the loan
7 agreements we had, every loan agreement had a different name.

8 Q. What was your understanding as to the different names of
9 those loans?

10 A. Operation hide from wife.

11 Q. And you had that understanding because Mr. Carton didn't
12 want his wife to know about the gambling, correct?

13 A. Correct.

14 MR. JANEY: No further questions, your Honor.

15 THE COURT: Thank you.

16 Redirect.

17 MR. KOBRE: Thank you, your Honor. Just briefly.

18 REDIRECT EXAMINATION

19 BY MR. KOBRE:

20 Q. You were asked some questions on cross-examination about
21 the energy company that you operated. Do you recall that?

22 A. Yes.

23 Q. Do you have any agreement at all with the government with
24 respect to allegations that were made against your company?

25 A. The government regarding this case?

IAVHCar3

Klein - Redirect

1 Q. Do you have any agreements with the U.S. Attorney's Office,
2 I'm sorry, regarding allegations that were made against your
3 energy company?

4 A. No.

5 Q. You were also asked some questions about a proffer
6 agreement that you entered into with the government. Do you
7 remember that?

8 A. Yes.

9 Q. Do you recall what period of time that agreement covered or
10 what that agreement covered or related to?

11 A. Just what was spoken here in court today.

12 Q. I'm sorry. The proffer agreement that you were asked
13 about -- do you recall being asked questions --

14 A. Yes.

15 Q. -- about a proffer agreement?

16 Do you remember when you signed the proffer agreement?

17 A. Maybe a month ago.

18 Q. Do you recall, when you signed the proffer agreement, did
19 you read it before you signed it?

20 A. Briefly.

21 Q. Did it relate to a particular time period or did it relate
22 to all time?

23 A. I believe it's just relating to this period now.

24 Q. Specifically, did it relate to a particular meeting that
25 you had with the government?

IAVHCar3

Klein - Redirect

1 A. I don't recall.

2 Q. If you looked at the agreement, would it help to refresh
3 your recollection?

4 A. Yes.

5 MR. KOBRE: If we can -- if Mr. Quigley can just
6 approach the witness for a moment --

7 THE COURT: Surely.

8 MR. KOBRE: -- with what's marked Government
9 Exhibit -- Defense Exhibit, I think, 112.

10 Q. If we could direct your attention to the top paragraph of
11 the agreement.

12 A. What's the question?

13 Q. Yes. Now, if you could just look up. Does that refresh
14 your recollection as to whether the proffer agreement relates
15 to a particular date or time?

16 A. October 16, 2018.

17 Q. Is it your understanding that that relates to any other
18 dates or times other than a meeting that you had on that date?

19 A. No.

20 Q. You were asked some questions on cross-examination about a
21 particular loan that you extended in December of 2016. Do you
22 remember that?

23 A. Yes.

24 MR. KOBRE: If we can just pull up Government
25 Exhibit 1707 and just enlarge the bottom email.

IAVHCar3

Klein - Redirect

1 Q. What are we looking at here?

2 A. A loan agreement from Craig Carton to myself.

3 Q. And this was the loan that was -- this relates to the loan
4 that Mr. Carton was proposing would be extended when?

5 A. December 2016, December 2, 2016.

6 Q. And when was the loan due back to you?

7 A. December 12, 2016.

8 MR. KOBRE: If we can now go to 2006-A, the last page,
9 just enlarge that.

10 Q. And focusing your attention on the third to last entry, did
11 you receive a transfer on December 12, 2016, as reflected here?

12 A. Yes.

13 Q. How much was that for?

14 A. \$500,000.

15 MR. KOBRE: One moment.

16 Nothing further.

17 THE COURT: Anything else?

18 MR. JANEY: No, your Honor.

19 THE COURT: Thank you, Mr. Klein. You're excused.

20 Call your next witness.

21 (Witness excused)

22 MR. QUIGLEY: Thank you, your Honor. The government
23 calls Brett Yormark.

24 THE COURT: Brett whom?

25 MR. QUIGLEY: Yormark.

IAVHCar3

Yormark - Direct

1 THE LAW CLERK: Come on up.

2 THE COURT: We're going to try to make this switch.

3 Swear the witness, please.

4 BRETT YORMARK,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. QUIGLEY:

9 Q. Mr. Yormark, where do you work?

10 A. I work at BSE Global.

11 Q. Is that formally known as Brooklyn Sports & Entertainment?

12 A. That is correct.

13 Q. OK if we just call it Brooklyn for today?

14 A. That is fine.

15 Q. How long have you -- what's your title there?

16 A. I'm the CEO.

17 Q. And what is Brooklyn?

18 A. Brooklyn is a sports entertainment company. We oversee
19 venues here in the New York metropolitan area. We own and
20 operate them. We also own and operate sports teams like the
21 Brooklyn Nets.

22 Q. You mentioned arenas and venues. What arenas and venues
23 does Brooklyn run?

24 A. Specifically, right now Barclays Center located in
25 Brooklyn, the Nassau Coliseum in Long Island, and we have two

IAVHCar3

Yormark - Direct

1 venues under development.

2 Q. How long have you been the CEO of the company?

3 A. Fourteen years.

4 Q. Where was the company based when you started working there?

5 A. In New Jersey.

6 Q. Did there come a time when the company moved to Brooklyn?

7 A. Yes, sir.

8 Q. When was that?

9 A. It was the fall of 2012.

10 Q. What event did that coincide with?

11 A. I'm sorry?

12 Q. When did the Barclays Center open?

13 A. In the fall of 2012.

14 Q. You mentioned the Nassau Coliseum. When did the company
15 start running the Nassau Coliseum?

16 A. It was April of 2017.

17 Q. Do you know someone named Craig Carton?

18 A. Yes, I do.

19 Q. At any point did you sign an agreement with him giving him
20 the right to purchase Barbra Streisand and Metallica tickets
21 from Brooklyn?

22 A. No, I did not.

23 Q. Did you have anyone else sign an agreement like that on
24 your behalf?

25 A. No, I did not.

IAVHCar3

Yormark - Direct

1 Q. Backing up a second, can you talk generally about your
2 duties and responsibilities as a CEO of Brooklyn, what you do.

3 A. On a day-to-day basis, I have business oversight of
4 everything, Barclays Center, the Coliseum, the development of
5 our venues. I also am the CEO of the Brooklyn Nets, so I
6 oversee the business operations of the Brooklyn Nets, the New
7 York Islanders, as well as the Long Island Nets.

8 Q. In your role as CEO of Brooklyn, do you ever sign
9 contracts?

10 A. Do I ever sign contracts?

11 Q. Yes.

12 A. Yes.

13 Q. Do you personally sign the contracts?

14 A. Yes.

15 Q. Every contract?

16 A. Not every contract.

17 Q. Based on your 14 years at Brooklyn, who else would be --
18 what types of contracts do you personally sign?

19 A. Generally speaking, those that are about 100,000 or more.

20 Q. Based on your 14 years at Brooklyn, who else would be
21 involved in drafting, creating, or approving an agreement for
22 more than a hundred thousand dollars?

23 A. Our legal department.

24 Q. For agreements less than that, do you ever authorize those
25 or sign those?

IAVHCar3

Yormark - Direct

1 A. Typically not. There's an understanding in the legal
2 department that they have the appropriate latitude.

3 Q. And how are those authorized?

4 A. Well, they're executed via stamp.

5 Q. Whose stamp is that?

6 A. My stamp.

7 Q. Who maintains the stamp?

8 A. The legal department, under lock and key.

9 Q. Now, how many people directly report to you at Brooklyn,
10 approximately?

11 A. At the executive level? I mean, ultimately, everyone does.

12 Q. At the executive level.

13 A. At the executive level, eight.

14 Q. Do you have a chief of staff?

15 A. Formerly.

16 Q. Who was the chief of staff in 2016 and 2017?

17 A. Fred Mangione.

18 Q. Does he still work at Brooklyn?

19 A. He does not.

20 Q. When did he leave?

21 A. He left about a year and a half ago.

22 Q. Was he asked to leave Brooklyn for any reason?

23 A. Absolutely not.

24 Q. What was your understanding of why he left?

25 A. Family reasons.

IAVHCar3

Yormark - Direct

1 Q. So shifting back to Mr. Carton, when did you first meet
2 Mr. Carton?

3 A. It was probably when we arrived in Brooklyn, so I would say
4 it was probably the fall of 2012.

5 Q. Had you appeared on his radio show before that time in
6 previous years.

7 A. Yeah, yeah, I can't recall how many, but yeah, I went on
8 the WFAN.

9 Q. How did you meet him in 2012? In what context?

10 A. Well, in the context of us moving to Brooklyn. We had
11 renewed our radio deal with WFAN, so the Brooklyn Nets have
12 called WFAN their flagship radio station while we're in New
13 Jersey and then, obviously, when we transitioned to Brooklyn.

14 Q. And over the next several years, how did your relationship
15 with the defendant develop?

16 A. We had a very good, professional rapport, a business
17 rapport.

18 Q. Did you view Mr. Carton as an important relationship?

19 A. I did.

20 Q. Why was that?

21 A. You know, he was an influence in the marketplace; obviously
22 had a big voice on WFAN. Again, you know, the home of the
23 Brooklyn Nets.

24 Q. Over time, setting aside his radio work for a second, did
25 he come to you with various concepts?

IAVHCar3

Yormark - Direct

1 A. Yes, yes.

2 Q. What were some of the concepts he approached you with?

3 A. There was a content deal. There was the --

4 THE COURT: I'm sorry. I'm not in your industry.
5 What does that mean?

6 THE WITNESS: I'm sorry, a programming deal. There
7 was an opportunity that came to us where Craig thought he might
8 have an opportunity to bring us some events at the Barclays
9 Center.

10 Q. What other concepts did he bring to you?

11 A. The Boomer and Carton Kitchen. There was a concession
12 stand at Barclays Center, so that certainly was a concept that
13 came to us.

14 Q. Anything else that he approached you with that didn't work
15 out?

16 A. I mean, there were many deals, concepts that came. I mean,
17 craig is a pretty aggressive guy, and he likes to do deals. So
18 lots of different concepts would come to us, and those that
19 certainly made sense, we continued to explore. And in the case
20 of the content deal and the Boomer and Carton Kitchen, you
21 know, we executed those partnerships.

22 Q. During the Boomer and Carton Kitchen and the content deal
23 and any other concepts that came to fruition, do you know
24 whether agreements were exchanged between Brooklyn and
25 Mr. Carton?

IAVHCar3

Yormark - Direct

1 A. They were.

2 Q. Were funds transferred between Brooklyn and Mr. Carton?

3 A. Yes.

4 Q. Now, you mentioned the content deal. Are you familiar with
5 something called Brooklyn Direct?

6 A. Yes, I am.

7 Q. What is Brooklyn Direct?

8 A. Brooklyn Direct is our in-house promotional arm. By that I
9 mean, rather than going the conventional route to bring an
10 event to the Barclays Center using a promoter, an outside
11 promoter, we effectively would act as a promoter and go direct
12 to a manager or an agent to bring a show or an event to
13 Barclays Center.

14 Q. How does that -- how does bringing an event or show
15 directly to Barclays Center differ from how shows typically
16 come to a place like the Barclays Center?

17 A. Effectively, we're acting as the promoter and we're
18 effectively taking the risk. We control most, if not
19 anything -- most, if not everything, around that show. The
20 typical arrangement is really more about a rental where a
21 promoter will come in and say: Hey, we've got an artist that's
22 touring, and we want to rent your building on a particular date
23 and bring that show to you. In that example, we don't control
24 much at all other than the fact that, you know, we're hosting
25 the event in our building.

IAVHCar3

Yormark - Direct

1 Q. When an outside promoter brings in a show?

2 A. Yes.

3 Q. Focusing back on this Brooklyn Direct concept, did there
4 come a time when Craig Carton became involved with Brooklyn
5 Direct?

6 A. Yes, he did.

7 Q. When was that, approximately?

8 A. I think it was around December 2014, thereabouts.

9 Q. During the course of your relationship with Craig Carton as
10 it related to Brooklyn Direct, did you meet with anyone else
11 who he was working with?

12 A. Yes, I did.

13 Q. Who is that?

14 A. Joe Meli.

15 Q. About how long did Carton's relationship with the Brooklyn
16 Direct concept last?

17 A. Well, we effectively terminated the relationship in March
18 of '15, so it didn't last long, and there was kind of like an
19 exit period which lasted until July of '15. But effectively,
20 the relationship did not last long.

21 Q. Just to be clear, did the Brooklyn Direct relationship with
22 Carton have anything to do with the purchase and resale of
23 tickets?

24 A. No.

25 Q. Why did the relationship end in March 2015?

IAVHCar3

Yormark - Direct

1 A. Well, there were a couple of factors. One, Craig started
2 working, you know, with a colleague on the Brooklyn Direct
3 business that created some concerns for me, I guess is the best
4 way to put it. Also, performance wasn't what we had hoped for,
5 so we effectively terminated the agreement.

6 Q. Who is the colleague who generated concerns?

7 A. Gentleman by the name of Joe Meli.

8 Q. Did you convey those concerns to Mr. Carton?

9 A. I did.

10 Q. Now, what happened with respect to Meli's relationship with
11 the Brooklyn Direct concept after that?

12 A. Well, effectively we dismantled the relationship in March,
13 so we were no longer in that business with Craig or Joe.

14 Q. Did you continue your relationship with Craig Carton after
15 that?

16 A. We did. I mean, there was, you know, a period of cooling
17 off, if you will, following, you know, the termination of that
18 agreement. But, you know, we maintained, you know, a business
19 rapport, and so yes.

20 Q. Now, over time had the defendant bought event tickets from
21 Brooklyn?

22 A. Yes.

23 Q. Now, prior to 2017, how would you describe the frequency
24 and regularity of these purchases?

25 A. You know, opportunistically. When Craig would call and he

IAVHCar3

Yormark - Direct

1 dealt with one of my colleagues, he would ask, you know, to
2 purchase some tickets, and we accommodated that.

3 Q. At some point around the fall of 2016, did he approach you
4 about a more formal relationship with Brooklyn Sports &
5 Entertainment relating to ticket?

6 A. He did.

7 Q. And so if we could publish what's in evidence, and you can
8 either look in the binder, Mr. Yormark, or look on the screen
9 in front of you, whichever's easier, Government Exhibit 2103,
10 and go to the email at 12:17 p.m., the last email in the chain.

11 Mr. Yormark, who's that email from?

12 A. That is from Craig Carton.

13 Q. What's the date?

14 A. It is October 18, 2016.

15 Q. And what time?

16 A. At 12:17 p.m.

17 Q. Who's it to?

18 A. It's to me and my colleague Fred Mangione.

19 Q. And what does Mr. Carton say in the email to you?

20 A. "Would be cool to solidify \$10 million deal before we
21 celebrate and honor you tonight."

22 Q. And what did you understand him to be referring to?

23 A. Oh, I was being honored that evening at the Gemr televent.

24 Q. Who was the MC of that event?

25 A. I don't know who the MC was, but Craig introduced me.

IAVHCar3

Yormark - Direct

1 Q. And if we could just put that side by side on the screen
2 with the next page, next email up in the chain.

3 A. Is there another one? Oh, OK. Thank you.

4 Q. Can you read your response.

5 A. "Fred, we need to discuss this. Craig, I am all over it.
6 As soon as Fred is in the office, we'll huddle up. Thanks for
7 all you are doing for us."

8 Q. So the original email from Mr. Carton was sent at what
9 time?

10 A. 12:17.

11 Q. And your email is sent at what time?

12 A. 12:25.

13 Q. Did you really think anyone was going to solidify a
14 \$10 million deal in the next seven hours?

15 A. Certainly not.

16 Q. In your 14 years of experience as Brooklyn CEO, how long
17 does it take to solidify a \$10 million deal?

18 A. Months.

19 Q. Were you seriously entertaining solidifying a \$10 million
20 deal in the next seven hours?

21 A. No, I was not.

22 MR. QUIGLEY: We can take that down.

23 Q. Do you think Mr. Carton understood that?

24 MR. GOTTLIEB: Objection, your Honor.

25 THE COURT: The objection's sustained.

IAVHCar3

Yormark - Direct

1 Q. Now, eventually, did you have a meeting with Mr. Carton
2 about this potential ticketing venture?

3 A. I'm sorry?

4 Q. Eventually, did you have a meeting with Mr. Carton about
5 this potential ticketing venture?

6 A. Yes, we had a meeting.

7 Q. And who was at that meeting?

8 A. Myself and Fred Mangione.

9 Q. And what happened at the meeting, to your recollection?

10 A. In my recollection, Craig talked a little bit about his
11 vision to getting into the ticketing business. We listened. I
12 think, if I recall correctly, I left a little early. And
13 that's what I recall of the meeting.

14 MR. QUIGLEY: So can we publish what's in evidence as
15 Government Exhibit 2106 and go to the second page.

16 Q. Do you see where you say, "Happy holidays. Have a great
17 time"?

18 A. Yes, I see that.

19 Q. Then there's an email above that from Mr. Carton about all
20 access passes and Streisand and Metallica?

21 A. Yes, I see that.

22 Q. Then could you go up two more emails.

23 Can you read Mr. Carton's email on 6:22 p.m.

24 A. "Great. If at all possible to email me my ability to buy
25 what we discussed would be great and make my investors know I'm

IAVHCar3

Yormark - Direct

1 not full of shit."

2 Q. How do you respond?

3 A. "Let me know exactly what you want me to send."

4 Q. Then do you see how Mr. Carton responds?

5 A. Yes, I do.

6 Q. There's a reference to Streisand and Metallica tickets in
7 there?

8 A. Yes.

9 Q. Did Brooklyn ever enter into an agreement with Mr. Carton
10 for Streisand and Metallica tickets for concerts in the spring
11 of 2017?

12 A. No, we never had an agreement.

13 MR. QUIGLEY: If you could take that down, Mr. Cooney,
14 and put up Government's Exhibit 2107. Actually, could we pull
15 that back up for one second. Sorry.

16 Q. Do you see where he says, "We are granting you a limited
17 exclusivity to purchase tickets to events at both Nassau
18 Coliseum and Barclays Center"?

19 A. Yes, I see that.

20 Q. Had you granted him an limited exclusivity to purchase
21 tickets at both Nassau Coliseum and Barclays Center?

22 A. No.

23 Q. Do you see -- focusing on paragraph 2, do you see where it
24 says, "Up to 10M of tickets for Barbra Streisand concerts at
25 Nassau for 2017"? Do you see that?

IAVHCar3

Yormark - Direct

1 A. Yes.

2 Q. Could you provide that at this point?

3 A. Could I provide that?

4 Q. Yes.

5 A. No.

6 Q. Why not?

7 A. Well, I mean, that effectively would mean we were giving
8 the house to Craig Carton; meaning, he was going to control
9 every ticket for the two shows there. And that's never been
10 done, and we would never do that.

11 Q. What about up to 3M of tickets for the not yet announced
12 Metallica event?

13 A. We could not do that either.

14 Q. Why not?

15 A. Metallica was doing a tour, and we didn't have that type of
16 access --

17 Q. So is that --

18 A. -- to tickets.

19 Q. -- one of the promoter-brought shows that you described
20 before?

21 A. Yes, yes. In fact --

22 MR. QUIGLEY: We can that I can take that down,
23 Mr. Cooney. Thank you. Could we publish what's in evidence as
24 Government Exhibit 2107.

25 Q. Do you see this, Mr. Yormark, 2107?

IAVHCar3

Yormark - Direct

1 A. Yes, I'm reading it. Yes, I see it.

2 Q. What's the date on this email?

3 A. December 14, 2016.

4 Q. What is Mr. Carton saying to you -- to you here?

5 A. He's asking for a general email tomorrow saying I can
6 invest up to \$30 million in Nassau and Barclays events.

7 Q. Did you understand he was -- or what does he say in the
8 last sentence beginning "I'm meeting"?

9 A. "Huge if you can send in the morning. I'm meeting investor
10 at 12:00."

11 Q. Now, again, did you ever enter into an agreement for
12 Streisand and Metallica tickets in December 2016 with
13 Mr. Carton?

14 A. We did not.

15 MR. QUIGLEY: Can we pull up what's in evidence as
16 Government Exhibit 2119.

17 Q. What's the date on this email, Mr. Yormark?

18 A. January 8, 2017.

19 Q. Can you read the -- who's it from?

20 A. It's from Craig Carton.

21 Q. Who's it to?

22 A. It's to Fred Mangione and myself.

23 Q. And can you read the first substantive line of Mr. Carton's
24 email under "Guys."

25 A. "As I mentioned on the phone, I have secured over

IAVHCar3

Yormark - Direct

1 \$100 million in financing and have been given marching orders
2 to be very aggressive in my investing. The following should
3 encapsulate what I would like to do."

4 Q. Sorry. Could you just read the line, the sentence
5 beginning "Thanks as always."

6 A. Oh. "Thanks as always for the time and for allowing me the
7 opportunity to discuss and hopefully execute a meaningful
8 agreement with you."

9 Q. Had Brooklyn executed any agreement with Mr. Carton --

10 A. No.

11 Q. -- as of January 8, 2017?

12 A. No.

13 Q. Do you see where it references the Streisand and Metallica
14 tickets on paragraph 2, paragraph beginning 2?

15 A. Yes, yes.

16 Q. Had you given Mr. Carton any first-look investment
17 opportunity or any investment opportunity in Streisand and
18 Metallica tickets at that point?

19 A. No.

20 Q. Then can you read the line of the email above "Thanks," the
21 paragraph above "Thanks," beginning "If possible."

22 A. I'm sorry. "If possible, would like to work towards
23 agreement this week."

24 Q. Could we back up a second. Mr. Yormark, do you recall
25 where you were on Government Exhibit -- on December 19, 2016?

IAVHCar3

Yormark - Direct

1 A. I think I was in New York City that day, Brooklyn and New
2 York City.

3 Q. Were you in Orlando, Florida, that day? Were you in
4 Orlando, Florida, that day?

5 MR. JANEY: Objection.

6 MR. GOTTLIEB: No, this is mine.

7 MR. JANEY: I'm sorry.

8 MR. GOTTLIEB: Objection.

9 THE COURT: Overruled.

10 Is it possible that you were in Orlando on that day?

11 THE WITNESS: No.

12 MR. QUIGLEY: Can we publish what's in evidence as
13 Government Exhibit 2112. I'm sorry. Just for the judge, the
14 lawyers, and the witness, Government Exhibit 2112.

15 Q. Mr. Yormark, do you see up on that screen Exhibit 2112?

16 A. Yes.

17 THE COURT: I don't, unfortunately. Why am I not
18 getting this?

19 Q. Mr. Yormark, is it a part of -- keeping a calendar for your
20 work at Brooklyn a regular practice of yours?

21 A. Yes, it is.

22 Q. Did you or your assistant keep the calendar entry in
23 Government's Exhibit 2112 and your other calendar entries in
24 the course of your regularly conducted activities as the CEO of
25 Brooklyn?

IAVHCar3

Yormark - Direct

1 A. Yes.

2 Q. Were the entries in your calendar made by someone with
3 knowledge of your schedule at or about the time the items were
4 scheduled?

5 A. Yes.

6 MR. QUIGLEY: Your Honor, the government offers
7 Government Exhibit 2112.

8 MR. GOTTLIEB: No objection, your Honor.

9 THE COURT: Admitted.

10 (Government's Exhibit 2112 received in evidence)

11 BY MR. QUIGLEY:

12 Q. So, Mr. Yormark, were you in Orlando on December 19, 2016?

13 A. I was not.

14 Q. Now, if we could take a look at Government's Exhibit 920,
15 which is in evidence. If we go to the first page of the actual
16 agreement, Mr. Yormark, have you seen this document before?

17 A. Only when the U.S. Attorney's Office showed it to me.

18 Q. And could we go to the -- what's the title of this
19 agreement?

20 A. Ticket Jones Event Ticket Agreement.

21 MR. QUIGLEY: Can we go to the last page of the
22 document. Sorry, second to last page.

23 Q. Who supposedly signed this agreement?

24 A. Supposedly, I did.

25 Q. Did you sign it?

IAVHCar3

Yormark - Direct

1 A. No, I did not.

2 Q. When was the first time you saw it?

3 A. At the U.S. Attorney's Office.

4 Q. And when was that?

5 A. I think it was approximately summer of '17.

6 Q. Well after December 2016?

7 A. Yes, sir.

8 Q. And was it shown to you by prosecutors and agents working
9 on this case?

10 A. Yes, sir.

11 Q. How did you react when you saw it?

12 A. I was very angry.

13 Q. Why was that?

14 A. Because I didn't authorize it.

15 Q. Directing your -- did you ask anyone to sign on your
16 behalf?

17 A. I'm sorry?

18 Q. Did you ask anyone to sign this document on your behalf?

19 A. No, I did not.

20 Q. Do you recognize your signature on this document?

21 A. I do.

22 Q. What is it?

23 A. It's a facsimile of my signature.

24 Q. Did you give anyone a facsimile of your signature to put on
25 this document?

IAVHCar3

Yormark - Direct

1 A. No, I did not.

2 Q. Did you tell anyone to stamp your signature on this
3 document?

4 A. No, I did not.

5 Q. Do you see under your name it describes you as the CEO of
6 Brooklyn Sports & Entertainment? Do you see that?

7 A. Yes, I do.

8 Q. You mentioned before that you do sign contracts on behalf
9 of your company, is that right?

10 A. Yes, I do.

11 Q. And when you sign contracts, do you ever signs at CEO of
12 Brooklyn Sports & Entertainment?

13 A. I do not. It's not a legal entity.

14 Q. What entities do you sign on behalf of?

15 A. Brooklyn Event Center, Nassau Event Center, but never
16 Brooklyn Sports & Entertainment. It's just a brand.

17 Q. If we could go back -- well, did Brooklyn ever enter into
18 this contract with Craig Carton?

19 A. We did not.

20 Q. Did Brooklyn ever enter into this contract with Ticket
21 Jones?

22 A. We did not.

23 Q. I want to direct your attention back to the first page of
24 the agreement, and focusing on the whereas clause, the third
25 whereas clause, how much is at issue in this agreement

IAVHCar3

Yormark - Direct

1 supposedly?

2 A. What was the question? I'm sorry.

3 Q. How much, what amount of money is at issue in this
4 agreement supposedly?

5 A. Says \$2 million.

6 Q. And based on your time at Brooklyn, would you be aware of a
7 contract for above \$100,000?

8 A. Yes, sir.

9 Q. Would a contract above \$500,000 be brought to your
10 attention?

11 A. Yes, sir.

12 Q. Would a contract above \$1 million --

13 THE COURT: Let's ask a level. What's the lowest
14 level contract you see as a regular matter of course?

15 THE WITNESS: Under 100,000.

16 Q. And the first time you saw this contract was at the U.S.
17 Attorney's Office?

18 A. That is correct.

19 THE COURT: Just humor me. The next time you ask him
20 a question, Where did you see this contract for the first time?
21 That way you're not answering the question.

22 MR. QUIGLEY: Thank you, your Honor.

23 Q. Where did you see this contract?

24 THE COURT: That's what's called a leading question.
25 Where the lawyer puts the answer in the question, that's a

IAVHCar3

Yormark - Direct

1 leading question.

2 Q. Where was the first time you saw this contract,
3 Mr. Yormark?

4 A. U.S. Attorney's Office.

5 Q. I want to focus your attention to the very first paragraph
6 of the agreement. Who are the parties to this agreement
7 supposedly?

8 A. It says Barclays Sports & Entertainment Company.

9 Q. And who's the counterparty above that?

10 A. Ticket Jones.

11 Q. How long have you been the CEO of Brooklyn?

12 A. Fourteen years.

13 Q. Have you ever heard of a company called Barclays Sports &
14 Entertainment Company?

15 A. No.

16 Q. Does any company with that name exist?

17 A. It does not exist.

18 Q. By the way, is that a different -- is that the same name or
19 different name that's under -- than the one that's under your
20 signature on page 5 of the agreement?

21 A. If you can go back to that.

22 MR. QUIGLEY: Would you put page 1 and 5 next to one
23 another.

24 A. They forgot the word "company," so it's not the same.

25 (Continued on next page)

IAV7CAR4

Yormark - Direct

1 BY MR. QUIGLEY:

2 Q. OK. But what is the name under your signature?

3 A. Brooklyn Sports & Entertainment.

4 Q. And if we go back to the first paragraph in the agreement,
5 what's the name there?

6 A. Barclays Sports and Entertainment Company. It's completely
7 different.

8 Q. Again, what's the date on this agreement?

9 A. December 16, 2016.

10 Q. And if we go -- who signed this agreement on behalf of
11 Ticket Jones on the last page of the agreement.

12 A. Craig Carton.

13 Q. And can we republish what's in evidence as Government
14 Exhibit 2119. If we highlight the line beginning "Thanks as
15 always..."

16 A. "Thanks as always for the time and for allowing me the
17 opportunity to discuss and hopefully execute a meaningful
18 agreement with you."

19 Q. Then can we also highlight the last line beginning "If
20 possible..."

21 A. "If possible would like to work towards agreement this
22 week."

23 Q. What's the date on this e-mail?

24 A. January 8, 2017.

25 Q. And that's after December 16, 2016?

IAV7CAR4

Yormark - Cross

1 A. Yes, it is.

2 Q. Would there be any reason for Mr. Carton to ask you about
3 executing a meaningful agreement if he already had a \$2 million
4 agreement with you?

5 MR. GOTTLIEB: Objection.

6 THE COURT: The objection is sustained.

7 MR. QUIGLEY: I have no further questions, your Honor.

8 THE COURT: Cross?

9 MR. GOTTLIEB: Thank you.

10 THE COURT: Thank you, Mr. Gottlieb.

11 CROSS EXAMINATION

12 BY MR. GOTTLIEB:

13 Q. Mr. Yormark, you were asked whether or not there was an
14 agreement between Brooklyn and -- any agreements between
15 Brooklyn and Craig Carton with regard to the Barbra Streisand
16 and Metallica concerts, and your answer was no, correct?

17 A. That is correct, there was not an agreement, a contract,
18 for those tickets.

19 Q. And taking that, is it fair to say that even though there
20 was no written contract, there were a lot of tickets that
21 Mr. Carton purchased from your company, correct, for Streisand
22 and Metallica? Correct?

23 A. Yes, he did buy some tickets for Metallica and Streisand.

24 Q. Let's talk about some. How many are in that some? How
25 many tickets for Barbra Streisand and Metallica did Craig

IAV7CAR4

Yormark - Cross

1 Carton purchase?

2 A. I don't know exactly the number, but for Barbra Streisand
3 probably a thousand tickets.

4 Q. Now, when you say a thousand, what's the basis of your
5 knowledge that it's about a thousand?

6 A. I don't get involved in the day-to-day ticket buying
7 business, but obviously I'm aware that tickets had been
8 purchased for the Barbra Streisand show.

9 Q. No. But when you said to this jury that it was about a
10 thousand, was that just a guess or is it based on you having
11 reviewed any records?

12 A. I've seen some records since then. I don't recall the
13 exact amount, but I would say it's or around a thousand
14 tickets.

15 Q. And isn't it true, sir, that for Streisand and Metallica
16 Craig Carton purchased upwards of \$1.5 million worth of those
17 tickets?

18 A. Probably sounds right dollar-wise, just given the cost of a
19 Barbra Streisand ticket.

20 Q. And in fact that approximately \$1.5 million equates to
21 approximately 4,000 tickets, correct?

22 A. No, I'm not aware of that number, not at all.

23 Q. Now, is it fair to say there aren't a lot of individuals
24 out there spending \$1.5 million for concert tickets, correct?

25 A. No, I can't say there are.

IAV7CAR4

Yormark - Cross

1 Q. How does Mr. Carton fit in? Where does he fit in? Is he
2 like one of the bigger purchases during this period of time for
3 Streisand and Metallica as compared to the rest of the
4 universe?

5 A. I can't really speak specifically to Metallica because we
6 had limited inventory, but as it relates to Barbra Streisand,
7 he would have been one of the larger purchasers of those
8 tickets.

9 Q. And Metallica is different, isn't it, because Metallica,
10 Brooklyn or Barclays didn't have direct control over that,
11 correct?

12 A. That is correct.

13 Q. And so if an individual or a company wanted to buy bulk
14 sales of Metallica, they didn't even go through Brooklyn,
15 correct?

16 A. Yes, that's conceivable.

17 Q. If a company or an individual wanted to buy bulk sales of
18 Metallica, they could go to Ticket Master, correct?

19 A. Ticket Master has restrictions on people buying bulk
20 tickets, so I'm not sure if that's possible. But, you know,
21 who knows, there could have been a resource out there. I can't
22 say that there isn't.

23 Q. Well, you were aware as the head honcho there, that for
24 Metallica, Ticket Master was a good source to buy a lot of
25 tickets for Metallica.

IAV7CAR4

Yormark - Cross

1 A. They restrict purchasing by bulk.

2 Q. How many did Mr. Carton purchase, the dollar amount of
3 tickets, for Metallica through Ticket Master?

4 A. I don't know.

5 Q. Putting aside the dollar amount, how many tickets did
6 Mr. Carton purchase through Ticket Master for Metallica?

7 A. Don't know that answer.

8 Q. Now, Mr. Yormark, during this entire period of time that
9 you testified about, did you ever tell Craig Carton, stop
10 bothering me, I'm not interested in any discussion about deals
11 with you?

12 A. I did not.

13 Q. Did you ever tell Craig Carton that Brooklyn was not
14 interested in entering any agreements with him in the future?

15 A. I did not, because --

16 Q. I didn't ask you because.

17 THE COURT: Yes or no question.

18 A. I did not. I did not.

19 Q. And in fact, when Craig Carton reached out to talk to you
20 about Barbra Streisand tickets, you went out of your way,
21 didn't you, to give him the impression that you were seriously
22 considering his proposal, correct?

23 A. Did not.

24 Q. Do you recall speaking to the F.B.I., to Mr. Quigley,
25 Elisha Kobre, on June 28, 2017?

IAV7CAR4

Yormark - Cross

1 A. I did have conversations with him. Sorry.

2 Q. Do you recall telling them that regarding the e-mail
3 exchange concerning the Barbra Streisand tickets, that you told
4 him that Brooklyn was not able to sell but that you wanted to
5 give Carton the impression they were considering his proposal?
6 Did you tell that to the government?

7 A. I don't recall saying it that way. If you let me expand on
8 that thought, I will.

9 Q. If you can answer the questions. So your testimony is
10 right now you don't recall whether or not you told the
11 prosecutors in this case that you went out of your way to give
12 Carton the impression that Brooklyn was considering his
13 proposal, correct?

14 A. I don't recall using those words, but if you say I said it
15 and it's documented, then it's documented.

16 Q. Now your relationship with Mr. Carton goes back many years,
17 correct?

18 A. Yes.

19 Q. When did you first learn of Mr. Carton or begin that
20 relationship?

21 A. Well, I mean I think the relationship that we had really
22 was effectually started when we moved to Brooklyn, but I'm
23 sure -- and I don't recall -- but I'm sure I might have been on
24 his show prior to that, in advance of coming to Brooklyn.

25 Q. And in addition to being on his show, is it fair to say you

IAV7CAR4

Yormark - Cross

1 had a number of meetings with Mr. Carton over the years?

2 A. We would meet a couple of times each year.

3 Q. Is it fair to say that you had dinner with Mr. Carton?

4 A. Yes, we had some business dinners.

5 Q. And you met with him at charity events?

6 A. He introduced me at one charity event.

7 Q. So let's talk about that introduction. I direct your
8 attention to October of 2016. Is that the year that you were
9 honored as man of the year at T.J. Martell awards?

10 A. Sounds right.

11 Q. And you say that Mr. Carton introduced you, correct?

12 A. Yes, he did.

13 Q. Did you ask Mr. Carton if he would introduce you at that
14 man of the year function?

15 A. My colleague Fred Mangione who was running the event on our
16 behalf asked Craig.

17 Q. And did Mr. Mangione clear that with you before he asked
18 Mr. Carton?

19 A. I don't recall having that conversation. Freddie was, like
20 I said, managing the event.

21 Q. And there was nothing about Mr. Carton being the person to
22 introduce you -- that didn't bother you, did it?

23 A. No, it did not.

24 Q. Did you consider him a friend at that time?

25 A. I considered him someone that we had a very good

IAV7CAR4

Yormark - Cross

1 professional rapport with and a business rapport.

2 Q. You know, during this time that you've had dealings with
3 Mr. Carton there were a lot of e-mail exchanges between you and
4 Mr. Carton. We have seen just some of them today, correct?

5 A. Yeah, yeah.

6 Q. And in those e-mail exchanges, do you remember how you
7 would address, you know, type on the e-mail when referring to
8 Mr. Carton? How would you refer to him?

9 A. I refer to most people buddy, friend. You know, I'm in the
10 relationship business, and that's typically my trade. I do
11 about 250 e-mails a day, so I typically do that, friend, buddy,
12 those are the words I typically use in e-mails.

13 Q. But you didn't really mean that he was your friend,
14 correct?

15 A. No, my reference to buddy and friend is just a warm
16 gesture; it's kind of an invitation to the conversation.
17 That's how I have been able to get to where I am today, good
18 relationships.

19 Q. Because that's a very effective way to convey something
20 that you may not really feel, correct?

21 A. No.

22 Q. As part of your talents which led you to where you are
23 today you have cultivated that ability to let somebody believe
24 that they were your friend when they really weren't your
25 friend, correct?

IAV7CAR4

Yormark - Cross

1 A. Not true.

2 Q. And during the time that you knew Mr. Carton, you went out
3 of your way to give him the impression that you were open to
4 him doing substantial business with Barclays, correct?

5 A. No.

6 Q. Mr. Yormark, you took advantage of Mr. Carton during this
7 period of time, didn't you?

8 A. I did not.

9 Q. You knew that you had somebody who was interested in
10 branching out into this ticket reselling business and was
11 interested and willing to purchase a lot of tickets from your
12 company, correct?

13 A. Based on his e-mails, it seems like he was.

14 Q. And you did not -- withdrawn.

15 You wanted to continue that relationship because that
16 made financial sense for your company, correct?

17 A. No, I wouldn't say that.

18 Q. So if somebody purchases \$1.5 million worth of tickets, are
19 you telling us that that did not make financial sense for
20 Brooklyn?

21 A. I would only say Barbra Streisand sells out every show,
22 sir, wherever she goes; she's an icon. She has sold out
23 numerous shows at our building.

24 Q. I know Barbra Streisand. I go back. I go back.

25 A. So do I. So do I.

IAV7CAR4

Yormark - Cross

1 Q. But that wasn't my question. My question was: It made a
2 heck of a lot of business sense for you to cultivate Mr. Carton
3 and give him the impression that you were open to him buying a
4 lot of tickets, correct?

5 A. No.

6 Q. You in the past have asked Mr. Carton to participate in the
7 Barclays Center Partners Summit. Do you know what that is?

8 A. Yes, it's a sponsor summit. And we haven't done one for
9 many, many, many years, so I don't recall that. It could have
10 happened, but I don't recall. We haven't done one in years.

11 Q. If we could go then to the dark nights -- Brooklyn
12 Direct -- I'm sorry, Brooklyn Direct. You were asked questions
13 about that. What is exactly that?

14 A. Exactly is what?

15 Q. That whole deal, Brooklyn Direct, dark nights?

16 A. Well, Brooklyn Direct is our branded promotional arm,
17 again, where we go direct to an artist, a manager or their
18 representation, to bring an event to Barclays. And the
19 relationship that we forged with Craig was relying on his
20 ability to potentially use some of his relationships to bring
21 events to Barclays Center.

22 Q. Well, let's break that down. So here was an opportunity to
23 use Craig Carton to help your company fill seats, correct?

24 A. Not use Craig Carton. I mean I can't agree to that. There
25 was a contract that was memorialized that benefited both

IAV7CAR4

Yormark - Cross

1 parties in order for us to work together to bring events to
2 Barclays Center.

3 Q. You just told the jury the reason why it was especially
4 attractive to enter into this contract with Mr. Carton was
5 because of who he was and who his relationships were with,
6 correct?

7 A. Well, he had some relationships, so we figured those
8 relationships might benefit both parties, so we forged an
9 agreement and memorialized it with a contract.

10 Q. And so you entered into a deal, an agreement, a contract,
11 with Mr. Carton to help fill seats at your arena on nights that
12 there were no other events there, correct, the dark nights,
13 correct?

14 A. That's fair to say.

15 Q. Because if Mr. Carton didn't do that, no one else did it,
16 then your company would lose money because there would be no
17 events there.

18 A. No, not correct. We're the busiest building outside of MSG
19 in North America.

20 Q. Congratulations.

21 A. Thank you.

22 Q. So now you enter into this agreement with Mr. Carton, and
23 there is a company that's formed, correct, for that purpose?

24 A. Yes.

25 Q. What's the name of that company?

IAV7CAR4

Yormark - Cross

1 A. I don't recall what that company was.

2 Q. Well, in fact, sir, wasn't Mr. Carton a 51 percent owner of
3 that entire enterprise that we're talking about here?

4 A. I haven't seen the agreement in quite some time, but I will
5 take your word for it.

6 Q. Don't take my word for it. Do you have a recollection that
7 in this deal that you, your company, entered into with
8 Mr. Carton, Mr. Carton was a 51 percent owner?

9 A. That quite possibly could have been the deal parameters. I
10 just don't know because I haven't seen it lately. But let's
11 take your word for it.

12 Q. And it was during this time that you said you met this guy
13 Joseph Meli?

14 A. Yes.

15 Q. You didn't know Meli before this date, correct?

16 A. I did not.

17 Q. And how long did this agreement, this enterprise, continue?

18 A. It went on for a couple of months.

19 Q. And Mr. Carton's title with this company that we're talking
20 about was what?

21 A. I don't recall.

22 Q. He was the CEO, wasn't he?

23 A. OK.

24 Q. Withdrawn.

25 The CEO named by you was Joseph Meli, correct?

IAV7CAR4

Yormark - Cross

1 A. Don't recall that.

2 Q. By the way, did you do any due diligence on Joseph Meli to
3 check him out before you agreed to have him become involved in
4 this enterprise?

5 A. The original -- the deal --

6 THE COURT: Yes or no question. Did you do any due
7 diligence into Mr. Meli?

8 THE WITNESS: When the -- it's tough for me to answer
9 that question only because when we originally consummated the
10 deal Joe was not involved.

11 Q. Now, there comes a time that this enterprise ends.

12 A. Yes.

13 Q. And there are formal separation agreements that are
14 prepared concerning or covering Meli and others, correct?

15 A. That is correct.

16 Q. And the separation agreements are the agreements saying
17 your services are no longer needed, you are no longer involved
18 in this, here are the terms of you leaving, correct?

19 A. I didn't read them, but, yes, I would assume that's what
20 they stated. I haven't seen them in a while.

21 MR. GOTTLIEB: May we have Government Exhibit 2139,
22 please. 2101. I'm corrected, your Honor.

23 THE COURT: OK.

24 MR. GOTTLIEB: 2101.

25 MR. QUIGLEY: Your Honor, this is not in evidence.

IAV7CAR4

Yormark - Cross

1 THE COURT: It is not in evidence. It should only be
2 on my screen.

3 Q. Mr. Yormark, do you see the document on the screen?

4 A. Yes, I do.

5 Q. And is that the separation agreement involving Joseph Meli?

6 Your Honor, do you have it?

7 THE COURT: I've got it, yes.

8 A. I have not read it in its entirety, but it looks just that.

9 Q. And this is the separation agreement between Brooklyn
10 Events Center and you as chief executive officer going back to
11 March 31, 2015, and it's directed to Joseph Meli, correct?

12 A. Yes, sir.

13 Q. And you signed that agreement, correct?

14 A. Yes.

15 Q. And that agreement was e-mailed to Joseph Meli, correct?

16 A. I don't know if it was e-mailed. My legal department would
17 have handled that.

18 MR. GOTTLIEB: Your Honor, may we have this document
19 that's now been identified received in evidence, please.

20 MR. QUIGLEY: We have no objection.

21 THE COURT: It's admitted.

22 (Government Exhibit 2101 received in evidence)

23 MR. GOTTLIEB: If we could publish that to the jury,
24 your Honor.

25 THE COURT: OK. Move on.

IAV7CAR4

Yormark - Cross

1 Q. Mr. Yormark, on the first page you see on the top it says
2 by electronic delivery, jmeli74@gmail.com.

3 A. I see that.

4 Q. And then we can go to the last page. Again this is the
5 separation agreement between your company and Joseph Meli, and
6 it has your signature, correct?

7 A. Yes, it does.

8 Q. And on the bottom of that there is a stamp there Joe Meli
9 4/6/15. Correct?

10 A. Yes.

11 Q. Thank you. Now, it's your understanding that Mr. Meli
12 received a copy of this agreement, correct?

13 A. I would assume so, yes.

14 Q. And this agreement has your signature right on it, doesn't
15 it?

16 THE COURT: We've already asked that. Let's move on,
17 please.

18 Q. In addition to Mr. Meli, there were a number of other
19 individuals who were working with Meli who received similar
20 agreements, correct?

21 A. Yes.

22 Q. With your signature affixed to it, correct?

23 A. Yes.

24 Q. I want to ask you on that Ticket Jones event agreement that
25 was shown before, that you testified you didn't sign --

IAV7CAR4

Yormark - Cross

1 A. That is correct.

2 Q. It's your signature on it, correct? Correct?

3 A. It looks like a stamped signature, yes.

4 Q. You don't know who stamped it, correct?

5 A. Can't say I do.

6 Q. You don't know when it was stamped, correct?

7 A. Correct.

8 Q. Is it fair to say that your signature, your stamped
9 signature, is on many documents out there, correct?

10 A. That's a fair assumption.

11 Q. Now, in your operation Fred Mangione works very closely
12 with you, correct?

13 A. He did, yes.

14 Q. Is it fair to say that you first learned about a possible
15 deal and investment proposal, you learned about it from Fred
16 Mangione, correct?

17 A. Well, as I stated earlier, there was an initial ticket
18 meeting where I heard conceptually of a ticket business.

19 MR. GOTTLIEB: Your Honor, may we just have a yes or
20 no to that?

21 THE COURT: Simple yes or no, sir. These fellows in
22 the front will be happy to ask you questions if they need to
23 clarify anything.

24 THE WITNESS: Can you repeat the question, please.

25 Q. You came to learn about the investment proposal with regard

IAV7CAR4

Yormark - Cross

1 to Mr. Carton that you've testified to, you learned about it
2 through your chief of staff Fred Mangione, correct?

3 A. Yes.

4 THE COURT: Tell me when is a good time to stop for
5 lunch.

6 MR. GOTTLIEB: Your Honor, right now, that would be
7 fine.

8 THE COURT: OK, folks, I will see you in an hour.
9 Don't discuss the case; keep an open mind.

10 (Luncheon recess)

11 (Continued on next page)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

IAV7CAR4

Yormark - Cross

A F T E R N O O N S E S S I O N

2:15 p.m.

(Jury present)

THE COURT: Welcome back.

Sir, you are still under oath.

BRETT YORMARK, resumed.

CROSS-EXAMINATION (Continued)

BY MR. GOTTLIEB:

Q. Mr. Yormark, when we had left I had asked you the question that you received the information with regard to this proposal by Mr. Carton. You learned about that from Fred Mangione, correct?

A. Yes, that's what I said.

Q. Now, when you learned about it, you learned that Mr. Carton had presented a proposal to Mr. Mangione to purchase tickets in bulk at face value, correct?

A. I don't have the proposal in front of me, so I can only speculate that that's what was presented to me.

Q. I'm not asking you to speculate.

THE COURT: Then he doesn't know the answer to the question.

A. The answer is I don't know.

Q. Do you have a recollection today --

A. It's a very general question when you say bulk tickets.

THE COURT: No, no, no. Do you have a recollection

IAV7CAR4

Yormark - Cross

1 today of what the proposal was.

2 THE WITNESS: No.

3 THE COURT: He does not. Next question.

4 Q. Do you have a recollection that part of the proposal was
5 that Mr. Carton would purchase tickets and sell them on the
6 secondary market in the hopes of making a profit?

7 MR. QUIGLEY: Objection. He said he didn't have a
8 recollection.

9 THE COURT: Do you recall that being part of the
10 proposal?

11 THE WITNESS: That I do recall conceptually, that
12 that's what Mr. Carton wanted to do, yes.

13 Q. And when Mr. Mangione gave you that information, did you
14 tell Mr. Mangione that you were opposed to that possibility?

15 A. No.

16 Q. Now, Mr. Mangione as your chief of staff was empowered, was
17 he not, to review e-mails that were addressed to you; is that
18 true?

19 A. That were directed to me independent of him? The answer
20 would be no. It's a wide-open question, because sometimes
21 you're cc'd on e-mails.

22 Q. I didn't ask you that. So, with regard to your
23 understanding of the proposal that Mr. Carton was presenting to
24 Mr. Mangione, didn't you understand that it would include your
25 company Brooklyn receiving a percentage of the profits that

IAV7CAR4

Yormark - Cross

1 Mr. Carton and Mr. Carton's company would make on the resale?

2 A. Yes, I do recall.

3 Q. And do you recall, what was the percentage of the profits
4 that your company would stand to earn on the tickets that
5 Mr. Carton sold?

6 A. That I do not recall.

7 Q. Do you recall that the percentage of profits was 10
8 percent?

9 A. Do not.

10 Q. Now, at the time that we're talking about, more
11 specifically in November 2016, did Mr. Mangione have the
12 authority to enter into any revenue sharing agreements with
13 others?

14 A. Again, I know you're going -- are you talking about
15 specifically to this ticket proposal?

16 THE COURT: With anybody, with anybody on the planet.

17 A. Ask the question again, please.

18 Q. In November of 2016, Mr. Yormark, did Fred Mangione have
19 the authority, the power, to enter into any revenue sharing
20 plans with anybody?

21 A. On a case-by-case basis.

22 Q. And on a case-by-case basis, did that mean that
23 Mr. Mangione made the decision on who to enter into these
24 agreements with alone? Was it his decision to make?

25 A. No.

IAV7CAR4

Yormark - Cross

1 Q. In any revenue sharing plan, did Mr. Mangione have to get
2 your approval?

3 A. It would depend on the nature of that revenue sharing plan.

4 Q. And the nature -- what was the demarcation between those
5 proposed plans of revenue sharing that Fred Mangione had the
6 power to approve without you and that he had to clear with you?

7 A. Let me say that I am the only one in the company that can
8 say yes. OK? Mr. Mangione would come to me, we would discuss
9 the magnitude and guidelines of whatever proposal there might
10 be from a revenue sharing perspective, and I ultimately am the
11 person that has the ability and the authority to say yes.

12 Q. Mr. Yormark, just a few moments ago you said there were
13 some instances where Mr. Mangione had the power to enter into
14 revenue sharing plans, correct? You said that a few moments
15 ago.

16 A. In nonmaterial, nonrelative deals that are not material in
17 nature, Freddie would have some latitude to make some
18 decisions. Anything that was material in nature -- and Freddie
19 used good judgment in determining that threshold -- he would
20 come to me and I would make that decision.

21 THE COURT: What do you mean by material?

22 THE WITNESS: Something again that would equate to
23 anything over \$100,000, back to what I said this morning.

24 Q. Thank you. So anything over -- any revenue sharing that
25 would exceed \$100,000, would require --

IAV7CAR4

Yormark - Cross

1 A. Anything of a six figure nature generally speaking -- there
2 are always exceptions to the rule -- we would sit down and
3 collaborate about.

4 Q. And before it was agreed to, you would have to know about
5 it, correct?

6 A. Yes.

7 Q. And you would collaborate with Mr. Mangione and discuss it,
8 correct?

9 A. Yes.

10 Q. And in order for it to go through, you would have to be the
11 person to say it's a go, correct?

12 A. Yes.

13 MR. GOTTLIEB: May we have 2106 put up on the board.
14 This is in evidence? OK.

15 Q. You were shown this earlier, Government Exhibit 2106, dated
16 December 14 on the bottom, 2016, and it's addressed to you from
17 Mr. Carton, correct?

18 A. That is correct.

19 Q. And Mr. Carton writes, "Great. If at all possible to
20 e-mail me my ability to buy what we discussed would be great
21 and make my investors know I'm not full of shit." Correct?

22 A. That's what it says.

23 Q. And what's your understanding about what had previously
24 been discussed that Mr. Carton is mentioning?

25 A. Well, I guess he is referencing the e-mail above.

IAV7CAR4

Yormark - Cross

1 THE COURT: You say you guess. That's the one thing
2 we don't want to you do.

3 THE WITNESS: I'm sorry.

4 THE COURT: Do you know what Mr. Carton is referencing
5 in the e-mail you were just read?

6 THE WITNESS: As a stand-alone e-mail, no.

7 Q. So if you look at what we just read, Wednesday, December
8 14, 2016 at 6:22 p.m., and then if you look up, the e-mail
9 above is Wednesday, December 14, 2016, 9 o'clock p.m. Correct?

10 A. Yes.

11 Q. So other than referring that you think it refers to a later
12 e-mail, do you have any other understanding as to what
13 Mr. Carton is referring to concerning what had been discussed?

14 A. I don't recall, no.

15 Q. And then at the top of that e-mail, 2106, it just says
16 basic e-mail saying the following: "craig, per our
17 conversation we are granting you a limited exclusivity to
18 purchase tickets to events at both Nassau Coliseum and Barclays
19 Center. If you are interested in the opportunity we require
20 good faith deposits of 20 percent of the total investment
21 opportunities."

22 Then if you look to a little bit below that, the
23 paragraph beginning with 2, it reads, "up to \$10 million of
24 tickets for Barbra Streisand concerts at Nassau for 2017.

25 "3. Up to \$3 million of tickets for not yet announced

IAV7CAR4

Yormark - Cross

1 Metallica event.

2 If you agree to invest in these events at face value
3 please remit \$3 million no later than December 20."

4 First, do you remember receiving that e-mail?

5 A. I mean my name is on it, so obviously --

6 THE COURT: The question is: Do you as you sit here
7 remember receiving that e-mail?

8 THE WITNESS: Yes.

9 Q. And after you received that e-mail -- the lower one and
10 then the upper one at 9 o'clock p.m. -- did you contact
11 Mr. Carton to respond to his proposal?

12 A. I don't think I did.

13 Q. Did you tell Mr. Mangione to respond to these e-mails?

14 A. I don't recall if I did either.

15 Q. Did you convey or communicate in any way with Mr. Carton to
16 say your proposal is ridiculous, it's rejected?

17 A. I didn't say yes to the proposal.

18 Q. Did you tell him that it was under consideration?

19 A. I don't recall saying that either.

20 Q. Now, there was a mention earlier regarding all access
21 passes. Can you please tell the jury what's this all access
22 pass.

23 A. All the all access pass is a product that was born in
24 Brooklyn when we moved to Barclays Center. It affords
25 someone -- if you're in the case of Barclays Center a season

IAV7CAR4

Yormark - Cross

1 ticket holder, you get presale all access -- if it's afforded
2 to the building -- for all those other events. So it was a
3 nice value proposition. When we opened up the Long Island
4 Coliseum, we did a bit of a hybrid of the all access pass.

5 Q. Now, with regard to the all access pass, can we look at
6 Government Exhibit 2135, please, just for the court and
7 counsel.

8 Do you see it there in front of you?

9 A. I do.

10 Q. Looking at Government Exhibit 2135, what is that?

11 A. It's a standard -- it looks like our standard Long Island
12 all access agreement for season seats.

13 Q. And if you look at the second page, is that a signed
14 agreement?

15 A. Yes, it is, sir.

16 Q. And it's a signed agreement by someone who is authorized to
17 sign this agreement on behalf of one of your companies?

18 A. Yes, our CFO has signatory approval, and that's our former
19 CFO.

20 Q. And this agreement is an agreement between which parties?

21 A. It says Craig -- oh.

22 Q. Let's go to the front page.

23 A. OK. Craig Carton and Nassau Events Center.

24 MR. GOTTLIEB: Your Honor, I would ask that this be
25 received in evidence, please.

IAV7CAR4

Yormark - Cross

1 MR. QUIGLEY: No objection.

2 THE COURT: Admitted.

3 (Government Exhibit 2135 received in evidence)

4 Q. If we could display that for the jury, please.

5 Now, this is an agreement between one of the companies
6 and Craig Carton for complete access to all events based on a
7 particular seat or seats, correct?

8 A. It's a season ticket holder agreement which affords, you
9 know, whoever that buyer is -- assuming the building has access
10 to those tickets -- which, of course, if we're hosting events,
11 we will -- the ability to purchase them.

12 Q. And how much does -- how much did an agreement like that
13 cost?

14 A. Well, I think -- well, I don't know how many tickets there
15 purchased, but if I recall each seat was about -- I see it
16 here, 86.25, so depending on how many seats, you know, you do
17 the math and that's the number.

18 Q. I am terrible in math. Could you give us the estimate as
19 to the value of the all access agreement.

20 A. Can you go to the next slide? I just don't know if it
21 tallies it here. I don't know, it looks like it's hundreds of
22 thousands of dollars, but I can't tell. I don't have a
23 calculator on me to add it up. I'm kind of like you, not good
24 with numbers.

25 Q. If you look at section C on that second page it talks about

IAV7CAR4

Yormark - Cross

1 the payment.

2 A. Yeah.

3 Q. In consideration for the Long Island --

4 A. I see it right now, 486,000.

5 Q. So the value of this agreement is \$486,000, correct?

6 A. Yep.

7 Q. And that is signed by Craig Carton, correct?

8 A. That is correct.

9 Q. Thank you.

10 If we could look at 2107, please. This is Government
11 Exhibit 2107 in evidence. It's an e-mail from Mr. Carton to
12 Fred Mangione and to you on December 14, 2016 at 11:04 p.m.
13 Correct?

14 A. That is correct.

15 (Continued on next page)

16

17

18

19

20

21

22

23

24

25

IAVHCar5

Yormark - Cross

1 BY MR. GOTTLIEB:

2 Q. Mr. Carton writes: "So we are on same page and to
3 simplify, all I really need is a general email tomorrow a.m.
4 saying I can invest up to \$30 million in 2017 Nassau/Barclays
5 events, including but not limited to, in parenthesis, named
6 shows. And then it goes on to discussion about making a good
7 faith deposit of no less than \$3 million by December 20.

8 Now, Mr. Yormark, you received this email, did you
9 not?

10 A. Yep, yep.

11 Q. In response to this email, did you contact Mr. Carton and
12 say, that doesn't clarify anything because that's not our deal?

13 A. I don't think I responded to this email.

14 MR. GOTTLIEB: May I see 2119 -- 2109. OK. I'm
15 sorry. Your Honor, 2109, please, first.

16 Q. Looking at Government's Exhibit 2109 in evidence, this is
17 an email from Fred Mangione to Craig Carton dated the next day,
18 December 15, 2016, and at 10:51 a.m. And you'll see that
19 Mr. Mangione writes, types: "Craig, thanks for your time
20 yesterday. Following up on our conversation. We are willing
21 to work with \$30 million of our inventory in Nassau and
22 Brooklyn and will give you the ability in January to purchase
23 up to 100 to 200 all access seats for the new Nassau arena."

24 First, stopping there, what's your understanding as to
25 who the "we" refers to in that third line, "we are willing"?

IAVHCar5

Yormark - Cross

1 Who's the "we"?

2 A. I guess that's the company. That's how we referred to it.

3 Q. Continuing: "If there are any shows that we own ourselves
4 under the Brooklyn Direct umbrella, we will give you the
5 ability to purchase a bulk of tickets for those shows. Past
6 shows in Brooklyn we have owned have been Billy Joel, Elton
7 John, Jimmy Buffett, and more. We would look for a \$3 million
8 good faith deposit by December 20 to move forward. We look
9 forward to next steps. Let me know if you have any questions.
10 Best."

11 Do you recall seeing this email?

12 A. Not until I saw it, not recently.

13 Q. Looking at next, we could look at Government Exhibit 526,
14 and this is for the Court and counsel, please.

15 Do you see it, Mr. Yormark?

16 A. I'm looking at it, yeah.

17 Q. What is that?

18 A. It's a -- states here it's a quick overview of ticket
19 business at Barclays and Nassau exclusively.

20 Q. This is an email that was sent to you and to Fred Mangione
21 from Craig Carton, correct?

22 A. Yes, it looks that way.

23 Q. And it's dated March 20, 2017, correct?

24 A. That is correct.

25 Q. And this is a -- withdrawn.

IAVHCar5

Yormark - Cross

1 Your Honor, I would ask this be received in evidence,
2 Government's Exhibit 526?

3 MR. QUIGLEY: Objection. Hearsay.

4 THE COURT: Hearsay overruled. The objection's
5 sustained.

6 BY MR. GOTTLIEB:

7 Q. Mr. Yormark, do you recall receiving this email?

8 A. I do not recall this email.

9 Q. Do you recall receiving any communications from Mr. Carton
10 in which he discussed the number of tickets that had already
11 been sold and how much Barclays profited?

12 A. I can't recall. I can't recall.

13 MR. GOTTLIEB: Can we look at 2102, please. This is
14 in evidence.

15 THE COURT: I don't know, is it?

16 MR. GOTTLIEB: Oh, yes, it is, your Honor.

17 Q. Government Exhibit 2102, this is an email, Mr. Yormark,
18 from Mr. Carton to you and to Fred Mangione sent on Monday,
19 October 17, 2016, correct?

20 A. Yes.

21 Q. And in it Mr. Carton writes: "Congrats on all concerts for
22 Nassau. We just played the promo. Assuming you have given our
23 chat some more thought, let's see if we can put a deal
24 together."

25 Now, stopping there. Mr. Yormark, what's your

IAVHCar5

Yormark - Cross

1 understanding of that chat? What's he referring to?

2 A. A conceptual conversation I assume he had with me.

3 Q. Do you recall having that conceptual conversation that he's
4 referring to in this email?

5 A. I don't recall this particular email or these specifics.

6 You asked me about what the chat might mean, and that's how I
7 answered it.

8 Q. Thank you.

9 He goes on to say: "I sent over the requested
10 sections and rows for Barclays and for Nassau. It would be
11 first 20 rows in B1 then A1 and C1. If we could agree to a
12 minimum of 200 seats to every nonsporting event, would
13 consider. Between the two venues, let's say there are 350
14 events, we would be purchasing at face value 70,000 tickets.
15 Assuming average ticket price of \$150, we would prepay you
16 10,500,000. You would receive 20 percent of the upside with
17 fully transparent reporting."

18 Stopping there. Mr. Yormark, do you recall learning
19 of that aspect of Mr. Carton's proposal?

20 A. I don't recall that.

21 Q. Thank you.

22 You can take that down. 2119, please. This is in
23 evidence, Government Exhibit 2119.

24 Mr. Yormark, this is an email from Mr. Carton to Fred
25 Mangione and to you dated Sunday, January 8, 2017, at 9:02 p.m.

IAVHCar5

Yormark - Cross

1 The subject, investment. It reads: "Guys, thanks as always
2 for the time and for allowing me the opportunity to discuss and
3 hopefully execute a meaningful agreement with you."

4 Stopping there. Mr. Yormark, do you recall or what is
5 your understanding as to the time that Mr. Carton is referring
6 to here?

7 A. I don't, but obviously, we don't have an agreement in
8 place.

9 Q. Well, you see, Mr. Yormark, I didn't ask you that, did I?

10 THE COURT: OK. What does the word "time" refer to,
11 if you know?

12 THE WITNESS: Can you restate the question, please.

13 THE COURT: The question was, what does the word
14 "time" in the first sentence of this email refer to, if you
15 know?

16 THE WITNESS: I don't know.

17 THE COURT: Thank you.

18 Let's move on, please.

19 BY MR. GOTTLIEB:

20 Q. On the bottom of this, without going through the middle
21 part, he again refers in paragraph 2 to Streisand and
22 Metallica. And on the bottom it reads: "Between all access
23 Streisand and Metallica, we could easily invest \$10 million
24 right out of the gate."

25 Again, Mr. Yormark, just sitting here now, now having

IAVHCar5

Yormark - Cross

1 seen this again, do you recall receiving this email?

2 A. I don't recall, but obviously my name is on it.

3 Q. Do you recall responding to this email back to Mr. Carton?

4 A. I can't say I do recall.

5 MR. GOTTLIEB: If we could look at Government
6 Exhibit 2126, please.

7 Q. Looking at Government Exhibit 2126 in evidence,
8 Mr. Yormark, this is an email from Mr. Carton to Mr. Mangione
9 and to you dated Monday, February 13, 2017, at 10:22 a.m.
10 Subject, Metallica.

11 A. Uh-huh.

12 Q. And Mr. Carton writes to you: "Congrats on the official
13 announcement today. As you know, my investment partner,
14 Brigade Capital, earmarked up to \$1 million for a potential
15 Metallica investment/partnership similar to our Streisand
16 investment. I know you have a limited number of tickets that
17 you control, so I am asking, if at all possible, is there a way
18 we can purchase tickets from LN" --

19 And can you tell us what "LN" is?

20 A. I think that would stand for Live Nation.

21 Q. -- "or Metallica or participate in some other financial
22 manner that would afford us the chance to invest as much as
23 possible? Thanks as always."

24 Do you recall receiving this email?

25 A. Again, I don't recall, but my name's on it.

IAVHCar5

Yormark - Cross

1 Q. Do you recall whether or not you responded to Mr. Carton?

2 A. I don't recall.

3 Q. Do you recall whether or not you conveyed in any way to
4 Mr. Carton that your proposal is ridiculous, it's not
5 acceptable? Did you ever convey that to him?

6 THE COURT: I think he just said he doesn't recall
7 responding.

8 A. I never said yes.

9 Q. Now, looking at Defendant's 29 -- and this is for the Court
10 and counsel -- do you see it up there?

11 A. Yes, I see that.

12 Q. All right. Do you recognize what this is?

13 A. Looks like -- let me just read it quickly.

14 Yeah, this looks like a reconciliation for the Twenty
15 One Pilots show.

16 Q. And is it an email addressed to you from Mr. Carton?

17 A. Yes, it is.

18 Q. And it's sent Sunday, January 22, 2017, 5:48:19 p.m.?

19 A. Yes.

20 Q. You know, when you say Twenty One Pilots, I'm sure everyone
21 knows Twenty One Pilots. So I'm asking for a friend, what's
22 Twenty One Pilots?

23 MR. QUIGLEY: Objection. Relevance.

24 THE COURT: The objection's sustained.

25 Q. Well, when you say "reconciliation for the Twenty One

IAVHCar5

Yormark - Cross

1 Pilots," what does that refer to?

2 MR. QUIGLEY: Document's not in evidence. We object
3 on hearsay.

4 THE COURT: The objection's sustained.

5 MR. GOTTLIEB: Your Honor, I ask that the email be
6 received in evidence, please.

7 THE COURT: No. Hearsay.

8 BY MR. GOTTLIEB:

9 Q. Do you recall receiving any reconciliations from Mr. Carton
10 concerning any of the shows that took place at your venues?

11 A. I don't -- well, let me ask you --

12 THE COURT: No, no, don't you ask him a question.

13 THE WITNESS: I understand. You're right, you're
14 right. Apologize for that. I'm learning.

15 A. I do not recall getting reconciliations through the
16 accommodation of ticket buying that we provided Craig with from
17 time to time.

18 Q. Looking at Defendant's 40, please, for the Court and for
19 counsel.

20 Now, please take a look at it.

21 A. Yes.

22 Q. Do you recall on May 2 of 2017, or thereabouts, having a
23 conversation with Mr. Carton regarding additional details of
24 his proposal to you, to Barclays?

25 A. I don't recall this at all.

IAVHCar5

Yormark - Cross

1 Q. Do you recall learning that Mr. Carton discussed with you
2 buying a minimum of 200 tickets?

3 THE COURT: OK. It stops now. This is not coming in.
4 It's hearsay. You can't read any portion of it. You can ask
5 him if he's seen it, if he's familiar with it, without telling
6 him, without telling the jury what's in the document. Is any
7 of it familiar to him, that's all you can do, Mr. Gottlieb.
8 I've let this go on long enough.

9 MR. GOTTLIEB: I understand. I understand, your
10 Honor.

11 Q. Throughout, up and to through May and June of 2017, is it
12 fair to say you continued to have communications with
13 Mr. Carton about details of his proposal, correct?

14 A. It's fair to say that your client was very solicitous of me
15 with this proposal, and it went on for many months.

16 Q. Actually --

17 A. So I would agree with that.

18 Q. OK. That's what I'm asking you.

19 And you participated in these conversations as well as
20 Mr. Mangione, correct?

21 A. I can't speak for how many conversations I was a part of.

22 MR. GOTTLIEB: Your Honor, if I can have one moment,
23 please?

24 THE COURT: Surely.

25 Q. Now, you told us that Mr. Carton was very solicitous of

IAVHCar5

Yormark - Cross

1 you, is that fair to say?

2 A. Well, the emails that you've shown me, they're constantly
3 asking for --

4 Q. Yes or no?

5 A. -- affirmation.

6 Q. Was he solicitous?

7 A. Did he come to me with a lot of different opportunities?
8 Yes.

9 Q. And in fact, you described him, did you not -- when you
10 spoke to the prosecutors in this case on June 28, 2017, you in
11 fact said to the prosecutors that Mr. Carton was extremely
12 solicitous of you, correct?

13 A. Yep, I could -- if that's what I said, then that is
14 correct.

15 Q. And through all these communications, however you responded
16 or however you didn't respond, is it fair to say that you were
17 placating Mr. Carton?

18 A. Yes, I was. I was placating him --

19 Q. Thank you.

20 A. -- and being very polite --

21 MR. GOTTLIEB: Your Honor, please.

22 A. -- in my responses.

23 Q. Now, there comes a time, you told us, that Mr. Mangione
24 left Brooklyn?

25 A. Yes, sir.

IAVHCar5

Yormark - Cross

1 Q. And when did he leave?

2 A. I said earlier about a year and a half ago, so I guess it
3 was late spring '17, or thereabouts.

4 Q. At the time he left, you participated in and arranged for a
5 luncheon with Mr. Carton and Mr. Mangione's replacement,
6 correct?

7 A. No, not his replacement. That is not correct.

8 Q. Mr. Mangione. I'm referring Mr. Mangione.

9 A. You said Mr. Mangione's replacement and Mangione, and I
10 said no. His replacement was not there.

11 Q. Do you recall going to a luncheon at Fresco by Scotto's?

12 A. Yes, I do.

13 Q. Do you recall that Mr. Kavanaugh, Brett Kavanaugh -- not
14 Brett, Brett, oh my Lord. Paul.

15 A. Let me help you. It's Paul. Did you say Paul? Good.

16 Q. I was referring to the Supreme Court justice. Paul
17 Kavanaugh.

18 A. OK.

19 Q. Paul Kavanaugh was present as well, correct?

20 A. Yes, he was.

21 Q. And the purpose of the meeting was for Mr. Kavanaugh to
22 meet Mr. Carton, correct?

23 A. Yes.

24 Q. And you wanted Mr. Kavanaugh to meet Mr. Carton because
25 Mr. Kavanaugh would now be the person who would be talking to

IAVHCar5

Yormark - Redirect

1 Mr. Carton and interfacing with him, correct?

2 A. When needed and necessary, yes, that is correct.

3 Q. And during this luncheon, do you recall discussions about
4 the business deals, the interest, the proposals involving
5 Mr. Carton and Brooklyn?

6 A. No, I don't -- I don't recall the commentary that -- during
7 that lunch. I do recall that we made the introduction from
8 Paul to Craig. Craig had purchased tickets from time to time.
9 We wanted to still accommodate him in an appropriate manner so
10 he would have someone to call if need be.

11 Q. Now, it's fair to say you don't have luncheons with every
12 customer who purchases tickets from time to time, correct?

13 A. I have a lot of lunches.

14 Q. I know, but see, my question is do you often just have
15 lunches with any person who purchases any amount of tickets?

16 A. You know, I'd hate to say it, but I do. I've been on suite
17 meeting lunches, season ticketholder lunches. As I said
18 earlier, I'm in the relationship business.

19 MR. GOTTLIEB: Got you. Thank you.

20 Your Honor, no further questions.

21 THE COURT: Redirect.

22 MR. QUIGLEY: Brief redirect, your Honor.

23 REDIRECT EXAMINATION

24 BY MR. QUIGLEY:

25 Q. Mr. Yormark -- can we pull up what's in evidence as

IAVHCar5

Yormark - Redirect

1 Government Exhibit 2102.

2 A. It's not on the screen.

3 Q. I think we're just taking it back. I'm sorry. 2101.

4 Now, do you recall being asked some questions on
5 cross-examination by Mr. Gottlieb about this agreement?

6 A. Yes.

7 Q. And he asked you whether it was sent to Joseph Meli?

8 A. Yes.

9 MR. QUIGLEY: Could we just go to the last page of the
10 agreement, Mr. Cooney.

11 Q. And it has your signature on it and Joseph Meli's signature
12 on it?

13 A. Yes.

14 MR. QUIGLEY: Can we put that to the side, Mr. Cooney,
15 and pull up what's in evidence, Government Exhibit 2144.

16 Q. Who's this email from, Mr. Yormark?

17 A. It's from Craig Carton.

18 Q. And who's it to?

19 A. Jeff Gewirtz and Marie Chindamo.

20 Q. Do you know who they are?

21 A. Yes, I do.

22 Q. Who are they?

23 A. Jeff Gewirtz is general counsel, and Marie chindamo at the
24 time was overseeing human resources.

25 Q. And they work in Brooklyn?

IAVHCar5

Yormark - Redirect

1 A. Yes.

2 Q. And what's the subject of the email?

3 A. Joseph Meli and separation agreement.

4 MR. QUIGLEY: Can we look at the last page of the
5 attachment, Mr. Cooney.

6 Q. Appear to be the same signature block as was on the exhibit
7 that Mr. Gottlieb showed you?

8 A. I'm sorry?

9 Q. Does that appear to be the same signature block on the
10 email that Mr. Gottlieb had just showed you that we just talked
11 about, Government Exhibit 2101?

12 A. Yes.

13 Q. Who is this email from?

14 Go back to the top, Mr. Cooney.

15 A. From Craig Carton.

16 MR. QUIGLEY: You can take that down, Mr. Cooney.
17 Thank you.

18 Q. By the way, after the end of the Brooklyn Direct Dark
19 Knight ventures partnership, did you have any further dealings
20 with Mr. Meli?

21 A. Did not.

22 Q. You were asked some questions about the all access pass.
23 Do you recall that?

24 A. Yes.

25 MR. QUIGLEY: Can you put up what's in evidence as

IAVHCar5

Yormark - Redirect

1 Government Exhibit 2135.

2 Q. Do you recall being shown this agreement by Mr. Gottlieb?

3 A. Yes, yes.

4 Q. This is the Long Island all access pass agreement?

5 A. Yes, it is.

6 MR. QUIGLEY: Can you look at -- can we look at the
7 second page, Mr. Cooney. If we could highlight Section C.

8 A. Yes.

9 Q. Do you recall Mr. Gottlieb asking you some questions about
10 how much Mr. Carton was going to pay for his participation in
11 the all access pass program?

12 A. Yes.

13 Q. Do you know whether Mr. Carton actually made all those
14 payments?

15 A. I'm not sure if he did.

16 MR. QUIGLEY: Can we just take down the blowup and put
17 it alongside Government's Exhibit 920. And go to the first
18 page of 920. And then go to the first page of 2135.

19 Q. These are two different agreements, Mr. Yormark, is that
20 correct?

21 A. Yes.

22 Q. Do they relate to two different things?

23 A. Well, I mean, they're both ticketing agreements.

24 Q. Did you sign the agreement that is Government's
25 Exhibit 920?

IAVHCar5

Yormark - Redirect

1 A. It's not listed, but that's -- which one is that? To the
2 right?

3 MR. QUIGLEY: Take down 2135, Mr. Cooney. Let's focus
4 on 920 and go to the last page.

5 Q. Did you ever sign that agreement, Mr. Yormark?

6 A. No, I did not.

7 Q. Did you ever authorize anyone to sign on your behalf?

8 A. No, I did not.

9 Q. Did you ever have any agreement with Craig Carton regarding
10 the purchase of Barbra Streisand tickets?

11 A. We never had an agreement with Craig Carton for tickets.

12 Q. By "we," who do you mean?

13 A. I'm sorry?

14 Q. By "we," who do you mean?

15 A. Our company.

16 Q. Brooklyn Sports & Entertainment?

17 A. Well, Barclays. It's Brooklyn Event Center and Nassau
18 Event Center. There's no such thing -- this is a brand,
19 Brooklyn Sports & Entertainment.

20 Q. But did your company ever have any agreement with
21 Mr. Carton --

22 MR. GOTTLIEB: Your Honor, I'm going to object at this
23 point. That's been asked and answered.

24 THE COURT: It has been.

25 MR. QUIGLEY: Thank you, your Honor. I have no

IAVHCar5

Yormark - Redirect

1 further questions.

2 THE COURT: Anything else?

3 MR. GOTTLIEB: No, your Honor. Thank you.

4 THE COURT: Thank you, sir. You may step down.

5 Call your next witness, please.

6 (Witness excused)

7 MR. QUIGLEY: Your Honor at this time we ask to offer
8 some emails through an email reader.

9 THE COURT: Excuse me while I talk to them.

10 Are these things that are in evidence?

11 MR. QUIGLEY: They've been authenticated, your Honor.
12 We're going to offer them.

13 THE COURT: They will be in evidence before anybody
14 starts to read anything. I told you that last week,
15 Mr. Quigley. Why did you think I would change my mind today?
16 Introduce them.

17 MR. QUIGLEY: Your Honor, the government offers
18 Government's Exhibit 288, 289.

19 THE COURT: Jim, can you write these down.

20 MR. QUIGLEY: 291, 292, 293, 744, 745, and 749.

21 THE COURT: I have copies? Were these part of the
22 stipulation that was read earlier today?

23 MR. QUIGLEY: The authenticity stipulation, yes, your
24 Honor.

25 THE COURT: Yes. Can I have copies, please.

IAVHCar5

1 Folks, don't discuss the case. Keep an open mind. Go
2 have a break.

3 (Jury excused)

4 (Continued on next page)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

IAVHCar5

1 (Jury not present)

2 THE COURT: Mr. Quigley, I meant what I said last
3 week. I don't care if every other judge in this court allows
4 emails that have not previously been admitted into evidence to
5 be read to the jury by someone from the witness stand. That is
6 not a proper way under the Federal Rules of Evidence of
7 introducing evidence into a case. You get it admitted, then
8 somebody can read it. And I don't care who else does it some
9 other way. That's the way you do it here. I told you that
10 last week.

11 MR. QUIGLEY: Your Honor, I'm sorry. I misunderstood.

12 THE COURT: How could you have misunderstood? I don't
13 think I could have been any clearer.

14 MR. QUIGLEY: I thought you wanted us to introduce
15 them with the witness on the stand one by one. That's what I
16 thought. I'm sorry. I was not meaning to disregard any
17 instructions by you.

18 THE COURT: I said you couldn't have someone read
19 emails into evidence and think that that was going to get them
20 into evidence. I said that. All right. Email by email I also
21 said because, undoubtedly, there would be objections.

22 So I have before me Government Exhibit 288 which you
23 are seeking to admit as?

24 MR. QUIGLEY: The fact that it was sent, your Honor.
25 It's Mr. Carton and a coconspirator statement, Mr. Carton

IAVHCar5

1 receiving --

2 THE COURT: Let's start with how has David Molner been
3 connected to this case as a coconspirator?

4 MR. QUIGLEY: Your Honor, we'd offer it subject to
5 connection.

6 THE COURT: Wait till later. I want Molner connected
7 up before the jury sees this.

8 MR. QUIGLEY: I understand. I would ask to take a
9 look at the next several emails that are in the stack. It's a
10 back-and-forth between David Molner, the defendant, and Joe
11 Meli regarding this agreement. They're making line edits to
12 it, and the agreement that Mr. Yormark testified that he didn't
13 send, didn't sign.

14 THE COURT: I said email by email. We're at 289, OK.
15 This is an email from?

16 MR. QUIGLEY: Email from the defendant.

17 THE COURT: It's from Mr. Carton, right?

18 MR. QUIGLEY: Yes.

19 THE COURT: Mr. Carton sent this?

20 MR. QUIGLEY: Yes.

21 THE COURT: This is a party admission. It's admitted.

22 MR. QUIGLEY: Thank you, your Honor.

23 THE COURT: That's why it's in, it's in because
24 Mr. Carton sent it.

25 (Government's Exhibit 289 received in evidence)

IAVHCar5

1 MR. QUIGLEY: Just to add to what's going on here,
2 Mr. Carton is providing edits to the agreement that he
3 previously got from Mr. Molner. He's saying it says Ticket
4 Jones twice everywhere. And then, again, this is the same
5 agreement.

6 THE COURT: That may be self-evident to you. It's not
7 self-evident to me.

8 MR. QUIGLEY: OK.

9 THE COURT: You see, it's not self-evident to me that
10 this email is a response to this email with edits, nor would it
11 be self-evident to the jury. And you certainly aren't going to
12 testify to that. Who is going to testify about that?

13 MR. QUIGLEY: Judge, if you look at 289, which is now
14 in evidence, on December 16, Mr. Molner sends, he says, "per
15 your request," right, and there's an executed copy of the
16 purchase agreement.

17 THE COURT: Correct, right.

18 MR. QUIGLEY: Then Mr. Carton responds, subject ticket
19 Jones/Barclays agreement, saying it says Ticket Jones twice
20 everywhere. So that's 289.

21 And then 290 -- sorry, 291, it's Mr. Molner responding
22 again. I think that's a coconspirator, but it's also not
23 coming in for the truth of the matter asserted. It's just
24 showing the course of dealing between them, that he sent some
25 agreements back.

IAVHCar5

1 THE COURT: 288 I understand admitting for the purpose
2 of showing that it was said because there's a statement from
3 Mr. Carton that responds to it, and for that purpose, for the
4 fact that it was said, that I understand.

5 291, the top email might conceivably refer to 288 and
6 289, but then we get into a whole new --

7 MR. QUIGLEY: Your Honor, it's a revision. It's all
8 the same chain. It's a revision of the same agreement.

9 THE COURT: Really?

10 MR. QUIGLEY: Yes. If you look at 291, bottom first
11 page, it's a December 16 3:23 p.m. email, all right?

12 THE COURT: But what's the thing in the middle.

13 MR. QUIGLEY: That's from Mr. Carton. That's
14 Mr. Carton's statement from Craig Carton to David Molner and
15 Joseph Meli. That's a party admission, and this is
16 Mr. Molner's response.

17 THE COURT: And Mr. Carton is sending what to
18 Mr. Molner?

19 MR. QUIGLEY: He's sending --

20 THE COURT: A signature line.

21 MR. QUIGLEY: A signature line.

22 THE COURT: Is that what you're suggesting?

23 MR. QUIGLEY: That goes into the agreement that's
24 actually incorporated into this agreement.

25 THE COURT: OK.

IAVHCar5

1 MR. QUIGLEY: And then 292, again, more in the same
2 chain. This is an email from Mr. Carton. So that's a party
3 admission. That comes in.

4 THE COURT: Anything written by Mr. Carton comes in.

5 MR. QUIGLEY: Thank you, your Honor.

6 THE COURT: All right.

7 MR. QUIGLEY: And then 293, again, this is a response
8 from -- another email further up in the same chain, same course
9 of dealing, a response from Mr. Molner. I think it comes in
10 for the fact that it was sent and also to show -- and I
11 think -- look, I think we're close to showing that they were
12 coconspirators here.

13 THE COURT: Yes, you're getting real close, I'll grant
14 you that.

15 MR. QUIGLEY: I think the statements themselves can be
16 considered, although -- and there's also independent
17 corroborative evidence from the prior exhibits that we just
18 showed it was Mr. Carton himself which was an independent basis
19 for coming in. Again, same agreement.

20 So that's that email. And then 744 is an email from
21 Mr. Carton.

22 THE COURT: Right.

23 MR. QUIGLEY: 745, email between Mr. Carton and
24 Michael Wright. I mean, we're happy to, for the time being,
25 offer only the bottom email since it's from Mr. Carton. But I

IAVHCar5

1 think, again, when you consider this, again, what's going on
2 here is this is Wright -- there was testimony yesterday that
3 Brigade wired \$3 million to Brooklyn and to Advance
4 Entertainment on December 19, 2017 -- sorry, December -- yes,
5 December 19, 2016, right. And this is the defendant Michael
6 Wright and Joseph Meli talking about what they're going to do
7 with that money. I think 744, again, is a party admission.
8 You can consider that.

9 And 745, which is another email on the same topic
10 comes in as a coconspirator's statement.

11 THE COURT: Mr. Gottlieb, do you want to argue?

12 MR. GOTTLIEB: Actually, very briefly, your Honor. On
13 745 --

14 THE COURT: Wait a minute. Let me get to 745. 745 is
15 two emails, one from Mr. Carton at the bottom and then one at
16 the top to Mr. Carton from Mr. Wright.

17 MR. GOTTLIEB: At this point in the state of the
18 record in this case right now, your Honor, we don't believe
19 there's been sufficient evidence, foundation presented to bring
20 this in under --

21 THE COURT: To bring Mr. Wright's statements in as a
22 coconspirator?

23 MR. GOTTLIEB: Correct.

24 THE COURT: That's your argument?

25 MR. GOTTLIEB: Yes.

IAVHCar5

1 THE COURT: Well, there, my friend, I disagree with
2 you. OK. They're all admitted.

3 MR. QUIGLEY: Thank you, your Honor.

4 (Government's Exhibits 288, 289, 291, 292, 293, 744,
5 745, and 749 received in evidence)

6 MR. GOTTLIEB: Your Honor, can I just raise an issue
7 if you're able to just right now because I believe -- I
8 understand your Honor's decisions with regard to anything that
9 Mr. Carton says comes in as a party admission. I understand
10 that. But clearly, what's happened here is the government is
11 cherry-picking and in fact --

12 THE COURT: They can pick whichever ones they want.
13 Sadly, you cannot introduce your client's statements made in
14 emails. You know that, and that's why I got so very upset when
15 time after time after time, documents you as a very competent
16 criminal defense lawyer know perfectly well you cannot get into
17 evidence, you are reading them to the jury, you're asking the
18 witness. It's just not right. It's not right.

19 MR. GOTTLIEB: Let me at least tell -- and I'll share
20 what my thinking is because I am aware of the rule; I abide by
21 the rule. But there's also a theory in the law and in trials
22 that you cannot mislead the jury. And just on a basis of
23 completeness, to take out one when there's --

24 THE COURT: Sorry. If you think it's misleading, you
25 have a case that you can put on. You have a difficult decision

IAVHCar5

1 to make. Actually, you don't have a difficult decision to make
2 at all. Mr. Carton has a difficult decision to make about
3 whether he will take the stand. But the rules are very clear.
4 His prior out-of-court statements aren't admissible under a
5 rule of completeness. They're not admissible under any rule at
6 all. The government can take whatever emails of his it thinks
7 are probative and put a case in front of the jury. And if you
8 think that case is misleading, you got to come up with a way to
9 explain to the jury why it's misleading.

10 MR. GOTTLIEB: OK.

11 THE COURT: And you know that that's the rule.

12 MR. GOTTLIEB: I do. But, your Honor, to me it's just
13 so clear that on a basis of completeness the few that we have
14 tried to get in, I thought your Honor would actually say, you
15 know what, that makes sense.

16 THE COURT: Well, especially in a case --
17 Mr. Gottlieb, especially in a case where it's clear that the
18 government is going to argue that Mr. Carton faked emails, that
19 Mr. Carton doctored emails, didn't send emails, emails that
20 weren't found on servers, emails that don't look like their
21 counterparts. You know, I've been down this road before in
22 another case. They're going to argue that those emails, far
23 from being rule of completeness, were there such a rule in this
24 circumstance, emails, they're emails that I'll bet the
25 government thinks never were sent.

IAVHCar5

1 Let's just lay it out on the table. Part of the
2 evidence here, which I didn't fully appreciate until today, but
3 I appreciate it now, is that as part of doing this, part of
4 allegedly scamming people, your client made up emails, made up
5 agreements that people never entered into, that never existed,
6 for his legitimate ticket business. So, OK, but that's yet
7 another reason to adhere 100 percent to the rule that your
8 client's out-of-court statements can be introduced by the
9 government for any purpose and cannot be introduced by you for
10 any purpose. All the more reason to adhere to the rule.

11 MR. GOTTLIEB: Thank you.

12 THE COURT: Let's bring in the jurors.

13 (Continued on next page)

14
15
16
17
18
19
20
21
22
23
24
25

IAVHCar5

1 (Jury present)

2 THE COURT: I'm so sorry, folks, but it was easier to
3 talk out loud than to do that at sidebar.

4 The following exhibits have been admitted: Government
5 Exhibit 288, Government Exhibit 299.

6 MR. QUIGLEY: It's 289, your Honor.

7 THE COURT: I'm sorry?

8 MR. QUIGLEY: It was 289.

9 THE COURT: 289. Government Exhibit 291, Government
10 Exhibit -- is there a 292?

11 MR. QUIGLEY: Yes, your Honor.

12 THE COURT: 292, Government Exhibit 293, Government
13 Exhibit 744, Government Exhibit 745, and Government
14 Exhibit 749.

15 The government wishes to present these to you. So
16 what they're going to do is they're going to put somebody on
17 the witness stand here who is going to read, I guess, portions
18 of those -- some of them are kind of lengthy -- documents into
19 evidence, and that person is going to be?

20 THE WITNESS: Mr. Urbanczyk.

21 THE COURT: Raise your right hand. Do you solemnly
22 swear that you will read accurately the emails that are being
23 put in front of you?

24 THE WITNESS: I do.

25 THE COURT: Thank you. Have a seat.

IAVHCar5

Urbanczyk - Direct

1 You may proceed.

2 MR. QUIGLEY: Mr. Cooney, can we publish what's in
3 evidence as Government Exhibit 288.

4 LUKE URBANCZYK,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. QUIGLEY:

9 Q. Mr. Urbanczyk, if you could read the header information and
10 the content of the email.

11 A. Sure. It's an email from David Molner to Craig,
12 labs123@aol.com.

13 THE COURT: Slowly enough so that the court reporter
14 can take it down.

15 A. CC's Joe Meli, jmeli74@gmail.com. Subject, Ticket
16 Jones/Barclays agreement. Says it was sent on Friday,
17 December 16, 2016, at 15:23. And the body of the email says,
18 "Per your request."

19 THE COURT: Ladies and gentlemen, this document has
20 been admitted, originally admitted, for the purpose of showing
21 that it was sent.

22 MR. QUIGLEY: Mr. Cooney, could we go to the first
23 page of the attachment and just publish it to the jury.

24 You don't need to read it in, Mr. Urbanczyk.

25 Could we go to page 5 of the document.

IAVHCar5

Urbanczyk - Direct

1 Could we go to page 7 of the document, the first page
2 of the second attachment.

3 Take that down, Mr. Cooney. Thank you.

4 Could we also publish what's in evidence as
5 Government's Exhibit 289.

6 Q. Mr. Urbanczyk, if you could read the top email in the
7 chain.

8 A. With the header information?

9 Q. Yes.

10 A. Subject reads: "Re: Ticket Jones/Barclays agreement." It
11 says from Craig, labs123@aol.com. Says sent Friday,
12 December 16, 2016, at 5:26 -- 15:26, excuse me. Cc'd is Joe
13 Meli, jmeli74@gmail.com. And it says to David Molner,
14 david.molner@gmail.com. And the body of the email says, "It
15 says Ticket Jones twice everywhere. Sent from my iPhone."

16 MR. QUIGLEY: You can take that down, Mr. Cooney. Can
17 we put up what's in evidence as Government's Exhibit 291.
18 Beginning with the email, if you could just pull it out so we
19 can see the whole first page, Mr. Cooney. Thank you.
20 Beginning with the -- and then can we blow up the email from
21 Craig on Friday December 16 at 3:58 p.m.

22 Q. Can you read the top email in the chain, Mr. Cooney --
23 Mr. Urbanczyk, sorry.

24 A. Sure. Says from David Molner to Craig, cc Joe Meli.

25 Subject, "Re: Ticket Jones/Barclays agreement." Date, Friday,

IAVHCar5

Urbanczyk - Direct

1 December 16, 2016, at 3:59 p.m. Has two attachments, and it
2 says, "Revised per your request."

3 MR. QUIGLEY: You can take that down, Mr. Cooney.
4 Could we put up what's in evidence as Government Exhibit 292.

5 Q. Could you read the bottom email from David Molner.

6 A. On December 16, 2016, at 4:21 p.m. It's from David Molner,
7 david.molner@gmail.com. Says, "This reflects the changes just
8 agreed re Tier One. Let me know if you need anything further.
9 DLM."

10 Q. Can you read the top email, Mr. Urbanczyk.

11 A. The subject says, "Re: Further revised Ticket
12 Jones/Barclays agreement." It's from Craig at labs123@aol.com.
13 It was sent Friday, December 16, 2016, 16:33, cc'ing Joe Meli,
14 jmeli74@gmail.com, and to David Molner, david.molner@gmail.com.
15 It says, "Please take out first 15 rows. Leave it as premium.
16 Sent from my iPhone."

17 MR. QUIGLEY: We can take that down. Can we put up
18 what's in evidence as Government Exhibit 293.

19 Q. Can you read the beginning email from Mr. Molner at
20 4:47 p.m.

21 A. It's from David Molner, david.molner@gmail.com, to Craig
22 cc'ing Joe Meli. Sent Friday, December 16, 2016, at 4:47 p.m.
23 Subject, re: further revised Ticket Jones/Barclays agreement.
24 It says, "Attached with that revision."

25 Q. Can we read the email above that.

IAVHCar5

Urbanczyk - Direct

1 A. It's from Craig Carton. Sent Friday, December 16, 2016, to
2 david.molner@gmail.com, cc'ing jmeli74@gmail.com. Subject, re
3 further revised Ticket Jones/Barclays agreement. And it says,
4 "Please take my signature off and resend and we are good."

5 Q. And could you read the email above that.

6 A. Just the body or the header as well?

7 Q. Just the body of the email.

8 A. "Signature removed, but sig page is still separate."

9 MR. QUIGLEY: Mr. Cooney, if we could just page to the
10 attachments slowly. That's good.

11 We can take that down, Mr. Cooney. If we could put up
12 what's in evidence as Government Exhibit 744.

13 Q. Can you read this email, Mr. Urbanczyk.

14 A. Including the header information?

15 Q. Yes, please.

16 A. It's from Craig, labs123@aol.com. It was sent December 17,
17 2016, at 9:16 p.m. to mw@sgrounpny.com and Joseph Meli,
18 jmeli74@gmail.com. The subject, just a plan. The body of the
19 email reads:

20 "3 million coming Monday. 1 million going to JM.

21 2 million going to CC.

22 CC sending 750 to MW for CMB.

23 CC sending 950 to MW for dezi." It's spelled d-e-z-i.

24 "C sending 200 to Ron.

25 C using 100 for personal.

IAVHCar5

Urbanczyk - Direct

1 Leaves 300 to make Ron whole and 270 more for full
2 return."

3 MR. QUIGLEY: You can take that down, Mr. Cooney.
4 Could we put up what's in evidence as Government's Exhibit 745.

5 Q. Could you just read the header information for the bottom
6 email.

7 A. Sure. It says from Craig C., craig@cureitbrand.com. Sent
8 December 20, 2016, at 7:18 a.m., to Michael, mw@sgroupnyc.com.
9 And the subject line is blank.

10 Q. Go ahead.

11 A. The bottom of the email reads:

12 "Please use 750 for CMB.

13 966 for Dezi.

14 Total 1,716,000.

15 50 for Harvey.

16 20 for boiler.

17 Total 1,786,000.

18 25, Dan Metzler.

19 100 Ron (you send).

20 Total 1,911,000.

21 9 MW payback.

22 80 Craig Citibank account.

23 Still owed.

24 Cortez 280.

25 MW 41.

IAVHCar5

Urbanczyk - Direct

1 Ron 700 by dec" -- I assume December -- "29.

2 New deals. BJ CMB 500, 10 percent return, Jan 10."

3 Q. Can you read the top email.

4 A. Including the header information?

5 Q. Yes, please.

6 A. It's from Michael Wright, mw@sgroupnyc.com, to Craig C.,

7 craig@cureitbrand.com. Subject is blank where it says "re."

8 Sent December 20, 2016, 1337. The bottom reads: "No wire has

9 come in yet. Harvey asking and dezi/sea," d-e-z-i, s-e-a.

10 Need to show them proof or fed ID number. Brigade would

11 absolutely have this instantly."

12 MR. QUIGLEY: You can take that down, Mr. Cooney.

13 Q. Then last one, Government's Exhibit 749. Can you read the
14 bottom email.

15 A. Sure. It says December 22, 2016, at 4:40 p.m., Craig,

16 labs123@aol.com wrote: "Almost in a really good place, but for

17 certain we survived the death bullet. We should map out

18 January and February when we all return. Love you guys, and

19 will be nice to start building in the weeks to come. MW,

20 please send to Joe the Tier One wire info. Thanks."

21 Q. Can you read the email above that.

22 A. "Love you all. Joe Meli." And then telephone

23 number 917-664-0256.

24 Q. And then can you read the email above that.

25 A. "Great work, my friends. To do battle another day."

IAVHCar5

Mangione - Direct

1 MR. QUIGLEY: Thank you, your Honor. We have no
2 further emails to publish at this time.

3 THE COURT: Call your next witness.

4 MR. KOBRE: The government calls Fred Mangione.

5 FRED MANGIONE,

6 called as a witness by the Government,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KOBRE:

10 Q. Good afternoon, Mr. Mangione.

11 A. Good afternoon.

12 Q. Where do you live?

13 A. Glen Rock, New Jersey.

14 Q. And where do you currently work?

15 A. Work for the New York Jets.

16 Q. And what's your position with the New York Jets?

17 A. Senior vice president of sales and marketing.

18 Q. When did you start working with the Jets?

19 A. Approximately April of 2017.

20 Q. Before joining the Jets in April of 2017, where did you
21 work?

22 A. Brooklyn Sports & Entertainment.

23 Q. Does that have any other names that it goes by?

24 A. Brooklyn Nets. You know, it was the hierarchy of any
25 properties that we owned.

IAVHCar5

Mangione - Direct

1 Q. Is it also sometimes called BSE Global now?

2 A. Correct.

3 Q. For about how long did you work for Brooklyn?

4 A. Seventeen years.

5 Q. Can you tell us a little bit about your educational
6 background.

7 A. I went to Centenary University. I majored in business with
8 a minor in marketing.

9 Q. Thank you. If you don't mind pulling the microphone closer
10 to you.

11 A. Sorry.

12 Q. What is Brooklyn?

13 A. What is Brooklyn?

14 Q. Yeah, what does the company do?

15 A. It's a sports and entertainment company that runs venues
16 and sports teams.

17 Q. Can you give us a little bit of the history of the company
18 from the time you started working there in the beginning.

19 A. I started in 2000. It was then called the New Jersey Nets,
20 and over the course of time, it was purchased by an owner who
21 was looking to bring sports and entertainment back to Brooklyn.
22 So we eventually ended up moving to Brooklyn in 2012, where we
23 then ran the Barclays Center and as well as what became the
24 Brooklyn Nets. After a period of time, we acquired other
25 arenas and also ran the New York Islanders.

IAVHCar5

Mangione - Direct

1 Q. OK. The Barclays Center, just so we are all on the same
2 page, what is the Barclays Center?

3 A. Barclays Center is an arena that's located in Brooklyn that
4 runs sporting events, family shows, concerts, things of that
5 sort.

6 Q. At a later time did Brooklyn also acquire another venue on
7 Long Island?

8 A. It did.

9 Q. What was that?

10 A. It was NYCD Live, formally known as the Nassau Coliseum.

11 Q. When did the Barclays Center open?

12 A. September 2012.

13 Q. And how about Nassau coliseum? When did that open?

14 A. That opened up April of 2017.

15 THE COURT: Nassau coliseum in April of 2017?

16 THE WITNESS: Well, it was reopened and renovated --

17 THE COURT: OK.

18 THE WITNESS: -- in 2017.

19 MR. KOBRE: Thank you.

20 THE COURT: Can we stipulate that the Nassau coliseum
21 has been around for quite a while?

22 MR. GOTTLIEB: A very long time.

23 BY MR. KOBRE:

24 Q. You testified that you worked at Brooklyn for about 17
25 years. About when did you leave?

IAVHCar5

Mangione - Direct

1 A. April of 2017.

2 Q. What was your position at the time that you -- right before
3 you left?

4 A. Chief of staff.

5 Q. I'm sorry?

6 A. Chief of staff.

7 Q. For about how long were you chief of staff?

8 A. Six, seven months.

9 Q. What were some of your duties and responsibilities as chief
10 of staff at Brooklyn?

11 A. It was really I was the relationship guy for the
12 organization. You know, I was involved with managing some of
13 our bigger relationships, such as, you know, our guest network,
14 Ticketmaster, what then became the new renovated Nassau
15 Coliseum. When we opened it up, I was kind of the lead of
16 opening that up. Also looked at acquiring new venues that led
17 to an acquisition of Webster Hall in New York City and the
18 Paramount Theater in Brooklyn as well.

19 Q. Before you became chief of staff, what position did you
20 hold at Brooklyn?

21 A. I was the chief operating officer.

22 Q. And for about how long did you hold that position?

23 A. About a year and a half.

24 Q. What were some of your duties and responsibilities in that
25 role as chief operating officer?

IAVHCar5

Mangione - Direct

1 A. That was running the day-to-day business of the Brooklyn
2 Nets, New York Islanders, and the arena sides. So the
3 sponsorship, ticket sales, marketing, public relations, those
4 sectors all kind of filtered up through me.

5 Q. Now, in your roles as chief operating officer and then
6 chief of staff, who did you report to?

7 A. Brett Yormark.

8 Q. And who's Brett Yormark?

9 A. He's the CEO of Brooklyn Sports & Entertainment.

10 Q. Are you personally familiar with the defendant, Craig
11 Carton?

12 A. Yes.

13 Q. How did you first come to have -- to meet Mr. Carton?

14 A. We had a relationship with WFAN through our partnership.
15 They broadcasted all what was New Jersey Nets and then became
16 the Brooklyn Nets, all the NBA basketball teams for the Nets.
17 So you do a lot of promotions and things of that nature. So I
18 was the lead as managing the WFAN account. So over the course
19 of time, Craig and his partner would do some promotional events
20 for us, on-air ticket giveaways, things of that nature.

21 Q. When you say "Craig and his partner," who were you
22 referring to?

23 A. Boomer Esiason.

24 Q. And explain to us, if you can just generally, what was it,
25 what was the relationship between WFAN and Brooklyn?

IAVHCar5

Mangione - Direct

1 A. WFAN -- WFAN broadcasts all our Nets games live on air. So
2 any Nets game that was on the air, you can listen to it on
3 WFAN.

4 Q. Was that part of a formal business relationship between
5 WFAN and Brooklyn?

6 A. Yes.

7 Q. About when did you first come to meet Mr. Carton?

8 A. Probably around 2011, 2012.

9 Q. Did Mr. Carton ever come to Brooklyn, one of Brooklyn's
10 venues, as part of this relationship?

11 A. Yes.

12 Q. In what context?

13 A. We used to do some promotional things with Craig, as well
14 as him and his partner used to broadcast a Nets game once a
15 year as part of a promotional -- again, part of the promotional
16 relationship with WFAN.

17 (Continued on next page)

18

19

20

21

22

23

24

25

IAV7CAR6

Mangione - Direct

1

2 BY MR. KOBRE:

3 Q. And did you come to meet him personally when he came to the
4 venues there?

5 A. Yes.

6 Q. Now did the relationship between WFAN and Brooklyn lead to
7 any further dealings between Brooklyn and Mr. Carton?

8 A. Yes.

9 Q. Can you describe those?

10 A. Well, when we opened up Barclays Center, one of the
11 initiatives we had was the Boomer Carton Kitchen, which was a
12 concession stand which was Barclays Center, which was open for
13 all the events, and it was a licensing agreement with Craig and
14 Boomer and WFAN.

15 Q. And in exchange for using Mr. Carton's name, what, if
16 anything, did Mr. Carton receive from Brooklyn?

17 A. It was a typical licensing agreement.

18 Q. Were there written agreements between Brooklyn and Carton
19 concerning the Boomer and Carton Kitchen?

20 A. Yes.

21 Q. And how, if at all, was the Boomer and Carton Kitchen
22 business relationship formalized?

23 A. Through an agreement through our legal department and with
24 eventually our CEO Brett Yormark.

25 Q. Does Brooklyn have policies and a procedures with respect

IAV7CAR6

Mangione - Direct

1 to agreements like the one you just talked about with the
2 Boomer and Carton Kitchen?

3 A. Yes.

4 Q. And what are the policies or procedures by which those
5 contracts come into place?

6 A. Everything is primarily run through our legal department
7 and ultimately led up to Brett.

8 Q. And are those agreements also, are they required to be
9 signed?

10 A. Correct.

11 Q. Who are they signed by?

12 A. Brett Yormark.

13 Q. Let me change gears a minute and ask you about programming
14 at Brooklyn's venue. How does Brooklyn make money from its
15 venues?

16 A. Well, it makes money by running events, selling tickets and
17 selling sponsorships.

18 Q. And how does Brooklyn obtain the events that it puts on at
19 those venues?

20 A. There are 365 days in the calendar year, so the goal is to
21 fill up as many of them as possible. 44 of them were filled up
22 through the Brooklyn Nets, 44 were filled up from the New York
23 Islanders, and the rest would be filled through concerts,
24 family shows and things of that nature.

25 Q. And focusing on the concerts, how did Brooklyn go about

IAV7CAR6

Mangione - Direct

1 obtaining concerts to put on at, for example, the Barclays
2 Center?

3 A. We had an agreement with Live Nation and AEG, who are
4 promoters in the concert business who would go out there and
5 bring artists to the building.

6 Q. What is a promoter?

7 A. A promoter is someone who has kind of a portfolio of
8 artists that they market and they make touring dates for and
9 they bring around the country.

10 Q. I think you mentioned the name -- the two names. Are those
11 promoters?

12 A. Yes, Live Nation and AEG.

13 Q. And what's the nature of the relationship with respect to
14 the shows that are brought through promoters to the Barclays
15 Center?

16 A. Well, a promoter -- usually when an artist goes on tour,
17 they pick out a certain number of venues that they're going to
18 play in, so, you know, Barclays -- you know, obviously there is
19 a lot of arenas in this marketplace, so we were always trying
20 to make sure that we could be one of the top venues that the
21 artist could play in when they came to the area.

22 Q. And what if anything does Brooklyn receive if you manage
23 the contract with a promoter for a particular concert?

24 A. There is a general rental fee that you receive, and then
25 there is usually a business equation where the artist gets

IAV7CAR6

Mangione - Direct

1 ticket sales, you know, concessions, things of that nature.

2 They are a little bit different from artist to artist, but
3 generally the promoter is renting a building from you for the
4 night.

5 Q. And other than contracting with a promoter like AEG or Live
6 Nation, are there any other ways that Brooklyn obtains concerts
7 to put on in its venues?

8 A. Well, from time to time we were able to go directly to some
9 artists and pay them directly to play an event.

10 Q. Which one of those is the more common way? The promoter or
11 Brooklyn contracting directly with an artist?

12 A. The promoter.

13 Q. What happens at a venue if on a particular day there is no
14 event through a promoter and also no direct concert gotten
15 through an artist?

16 A. The venue is dark.

17 Q. Is there a term for that that you use?

18 A. It's a dark night. So, in the industry you hope not to
19 have too many dark nights.

20 Q. Are you familiar with something called Brooklyn Direct?

21 A. Yes.

22 Q. And what is Brooklyn Direct?

23 A. Brooklyn Direct was a subsidiary that we set up where we
24 went straight to artists who were not touring, and we would pay
25 them directly and not go through a promoter and try to have

IAV7CAR6

Mangione - Direct

1 them do kind of a one-off show at one of our venues.

2 Q. And how if at all does that relate to the dark night
3 concept you just mentioned?

4 A. Well, the goal would be any opening nights we had -- you
5 know, the touring business is cyclical; some years it's very
6 active and other years it's not. So if we did have a lot of
7 dark nights, we would try to file them up by going directly to
8 artists.

9 Q. At some point did Mr. Carton make any business proposal to
10 you in connection with Brooklyn Direct?

11 A. He did.

12 Q. What was that?

13 A. He felt that he had some inroads to some entertainment and
14 some artists in the artist industry, and he thought that he
15 could help us fill up some of those dark nights.

16 Q. And so what was his proposal?

17 A. Hills proposal was a partnership with us to go out and
18 again try to fill up any night that we did not have an event in
19 the arena.

20 Q. And to be clear, who was it that proposed this business
21 relationship in connection with Brooklyn Direct?

22 A. Craig brought it to us.

23 Q. I'm sorry?

24 A. Craig brought it to us.

25 Q. About what year did that happen, or what period of time?

IAV7CAR6

Mangione - Direct

1 A. Probably around 2013, 2014.

2 Q. Did Mr. Carton have a company through which he proposed to
3 have this business relationship in connection with Brooklyn
4 Direct?

5 A. He did.

6 Q. And what was the name of that company?

7 A. Dark Night Ventures.

8 Q. Did Mr. Carton say whether he had any partners that he was
9 working with in Dark Night Ventures in connection with this
10 proposal?

11 A. He did.

12 Q. And who was that?

13 A. Joe Meli.

14 Q. What if anything did Mr. Carton tell you about Meli in your
15 discussions in connection with Dark Night Ventures and Brooklyn
16 Direct?

17 MR. GOTTLIEB: Objection.

18 THE COURT: Overruled.

19 MR. GOTTLIEB: Timeframe?

20 THE COURT: In connection with the discussions about
21 Dark Night Ventures.

22 MR. GOTTLIEB: Yes.

23 THE COURT: Overruled.

24 THE WITNESS: Sorry. Can you repeat the question.

25 Q. What, if anything, did Mr. Carton tell you about Mr. Meli

IAV7CAR6

Mangione - Direct

1 in connection with his business proposal for Brooklyn Direct?

2 A. Mr. Meli was someone who was in the entertainment industry
3 and he had some direct contact with a lot of artists, and he
4 would be able to bring some of them to Barclays.

5 Q. To fill the dark nights?

6 A. Correct.

7 Q. As part of the discussions with Mr. Carton about Brooklyn
8 Direct, did you end up meeting Mr. Meli?

9 A. Yes.

10 Q. And about how many times?

11 A. Probably five to ten.

12 Q. Did Brooklyn ultimately enter into an agreement with
13 Mr. Carton as part of Brooklyn Direct?

14 A. We did.

15 Q. And to be clear, was it with Mr. Carton personally or with
16 an entity -- or with Mr. Carton's entity?

17 A. It was with the entity, Dark Night Ventures.

18 Q. And was that pursuant to a written contract?

19 A. Yes.

20 Q. And what if any procedures did that contract -- that
21 written contract with Mr. Carton or Dark Night Ventures go
22 through?

23 A. It would have went through our normal procedures with
24 Brooklyn.

25 Q. Meaning what?

IAV7CAR6

Mangione - Direct

1 A. Through our legal department and ultimately up to Brett.

2 Q. Was it a signed agreement?

3 A. Yes.

4 Q. By who?

5 A. Brett Yormark.

6 Q. And under that agreement, who would reap the profits if
7 Mr. Carton or his entity Dark Night Ventures was able to bring
8 a show through Brooklyn Direct to be put on in a venue in
9 Brooklyn?

10 A. If it was a profitable show, it would have been a revenue
11 share between the two entities of Brooklyn and Dark Night
12 Ventures.

13 Q. Did Mr. Carton as part of that ever end up proposing any
14 artists to perform on a dark night?

15 A. Yes.

16 Q. Did any of those successfully happen?

17 A. No.

18 Q. Now, at some point, did that relationship with Dark Night
19 Ventures and Mr. Carton's entity and Brooklyn come to an end?

20 A. It did.

21 Q. And who ended it?

22 A. Brooklyn.

23 Q. And can you describe how that came about.

24 A. We received a phone call, specifically Brett, from an agent
25 that Joe Meli was someone in the entertainment --

IAV7CAR6

Mangione - Direct

1 MR. GOTTLIEB: Your Honor, I'm going to object to
2 this, if he didn't have this phone call.

3 MR. KOBRE: That's fine, your Honor. I will move past
4 this.

5 Q. Was it a result of -- are you aware -- at some point did --
6 at some point were you present at a time when Mr. Yormark
7 received a phone call?

8 A. I was in a car, yes.

9 Q. And as a --

10 THE COURT: You were in a car?

11 THE WITNESS: I was in a car with Mr. Yormark when he
12 received the call.

13 THE COURT: I see. Thank you.

14 Q. And as a result of that, did Brooklyn end the relationship
15 with Dark Night Ventures?

16 A. We did.

17 Q. And did you convey that to Mr. Carton?

18 A. We did.

19 Q. And what, if anything, did you tell Mr. Carton about why
20 you were ending your relationship with Dark Night Ventures?

21 A. We told Craig we were receiving some information from the
22 entertainment industry that Joe promised a lot of things to
23 people he couldn't deliver on, so we did not want to be
24 associated with that.

25 Q. And when you say Joe, who are you referring to?

IAV7CAR6

Mangione - Direct

1 A. Joe Meli.

2 Q. And specifically -- what specifically did you tell
3 Mr. Carton you had heard about Mr. Meli?

4 A. We heard that he tried to set up some festivals, and he
5 promised some people some artists to show up who evidently did
6 not show up.

7 Q. And was it for that reason that Brooklyn ended the
8 relationship with Dark Night Ventures?

9 A. Yes.

10 Q. Around -- was this -- do you remember about what year you
11 had this conversation with Mr. Carton to end the relationship?

12 A. I don't. I don't.

13 Q. Was it at a time period prior to the year 2016?

14 A. Yes.

15 Q. Now, in addition to -- you discussed the Boomer and Carton
16 Kitchen and Dark Night Ventures. Did Mr. Carton make other
17 business proposals to you?

18 A. There was a Greek stand that he was pursuing to put into
19 the arena as well.

20 Q. Sorry. What is a Greek stand?

21 A. A Greek stand was another concession stand that just served
22 Greek food for all the events that would come to Barclays.

23 Q. And how long did that go on for?

24 A. It was like a year or two.

25 Q. OK. And did Mr. Carton make any proposal in connection

IAV7CAR6

Mangione - Direct

1 with band aids?

2 A. He did.

3 Q. Just briefly what was that about?

4 A. He had a licensing agreement with a band aid company that
5 would put sports team logos on band aids, so he approached us
6 to see if we would be interested in doing that as a giveaway
7 one night.

8 Q. Did that ever happen?

9 A. No, we tried to get a sponsor for it, and we just couldn't
10 get one.

11 Q. Did Mr. Carton at one point also make a business proposal
12 in connection with some art?

13 A. He showed us some art and some pictures of some NBA players
14 specifically that he could make for the Nets and have something
15 that we could give to our season ticket holders, yes.

16 Q. Did that ever happen?

17 A. No.

18 Q. Now, directing your attention to 2015, that year, did
19 Mr. Carton purchase tickets to various events at Brooklyn's
20 venues?

21 A. He did.

22 Q. In what sorts of quantities?

23 A. Various quantities, but, you know, it was smaller amounts,
24 20, 40, you know, things of that stuff.

25 Q. 20, 40 tickets?

IAV7CAR6

Mangione - Direct

1 A. 20, 40 tickets. I'm sorry. Yeah.

2 Q. At a time?

3 A. Yeah, at a time. It really depended on the event and when
4 we were looking to sell them to him.

5 Q. What did you understand Mr. Carton was going to do with the
6 tickets -- keeping the focus on 2015, what was the purpose of
7 his purchase of the tickets?

8 A. He said he was going to purchase the tickets to put on the
9 secondary market.

10 Q. What do you mean by the secondary market?

11 A. Secondary market is when a fan, a consumer, takes a ticket
12 that they purchased from a venue or Ticket Master, and they put
13 it on a website online, primarily StubHub or Vivid Seats, a
14 couple different ones that are out there, hoping to make a
15 profit off it.

16 Q. Did Brooklyn have any agreement in place with Mr. Carton
17 relating to the sale of the tickets in 2015?

18 A. We did not.

19 Q. Now, did Mr. Carton continue to request -- to ask to
20 purchase tickets from Brooklyn in 2016?

21 A. He did.

22 Q. If we can publish Government Exhibit 2102, and if we can
23 just enlarge this.

24 Mr. Mangione, this is an e-mail from Mr. Mr. Carton to
25 yourself and Brett Yormark on December 17, 2016. Do you see

IAV7CAR6

Mangione - Direct

1 that?

2 A. Yes.

3 Q. And just focusing your attention for a moment on the fourth
4 line down. "If we can agree to a minimum of 200 seats to every
5 nonsupporting event, we will consider." Do you see that?

6 A. Yes.

7 Q. Did you ever agree to this proposal?

8 A. No.

9 Q. And was this proposal possible, in your view?

10 A. Well, it was possible. We just didn't know how many events
11 we would have.

12 Q. Is this something you considered actually entering into?

13 A. No.

14 Q. And why not?

15 A. Again, we just didn't know how many events were coming in,
16 and every event the ticket allocation is different.

17 Q. When you say every event the ticket allocation is
18 different, did that relate at all to what you described earlier
19 in terms of promoter events versus events that Brooklyn
20 contracted directly with an artist?

21 A. It's a promoted versus self-promoted event.

22 Q. Just explain what that means and how that relates to this
23 proposal.

24 A. Well, again what that means is if Live Nation or promoter
25 brings us an event, they usually control the ticket allotment

IAV7CAR6

Mangione - Direct

1 and the venue itself controls a very, very limited amount.

2 When it's a sell promoter, then you basically bought the show
3 out, so you control all the inventory for that specific
4 evening, the sell promoter.

5 Q. How does that relate to your view of this proposal?

6 A. We just wouldn't know at this time what was self promoted
7 versus self-promoted events.

8 Q. You familiar with the term premium seating?

9 A. Yes.

10 Q. What is premium seating?

11 A. Premium seating is usually defined as the first ten rows
12 around stage, or if you're at a sporting event, around the
13 court or ice.

14 Q. So in this e-mail if we can drop down -- actually if you
15 can just go to the third line, so just one line up. "I sent
16 over the requested sections and rows for Barclays and for
17 Nassau it would be 20 rows in B1 and then A1 and C1." Do you
18 see that?

19 A. I do.

20 Q. The seats that Mr. Carton is describing here, would these
21 be considered premium seating?

22 A. Yes.

23 Q. And is Brooklyn able to sell premium seats to a performance
24 before it is booked either through a promoter or directly?

25 A. Again, it varies by event, so we wouldn't be able to

IAV7CAR6

Mangione - Direct

1 guarantee what events we could or couldn't.

2 Q. Are you familiar with the term all access seats?

3 A. Yes.

4 Q. What are all access seats?

5 A. Well, we had two versions of all access seats. In Brooklyn
6 all access seats is if you owned a season ticket for the
7 Brooklyn Nets, you had the ability to get a presale for any
8 concert that was coming into Barclays.

9 Q. Sorry. Let me just stop you there for a minute. When you
10 say you would be able to get a presale, can you just explain
11 that.

12 A. OK. Sorry. A presale is when before it goes on sale to
13 the general public there is usually a 48 hour window to let a
14 specific universe of people be able to buy a ticket before it
15 goes on sale to the general public. So, all Nets season ticket
16 holders had a 48 hour window to buy a concert before it went on
17 sale to the general public.

18 Q. That's the meaning of all access at --

19 A. In Brooklyn.

20 In Nassau we had about 200 seats that were put aside
21 where you basically bought a seat that guaranteed you a ticket
22 to every event at their renovated Nassau Coliseum.

23 Q. So am I right that at Barclays the all access seats were an
24 option; is that the idea?

25 A. Correct, you had your opportunity to pick and choose from

IAV7CAR6

Mangione - Direct

1 the presale, where in Nassau when you bought that seat you got
2 it for every event no matter how many events there were.

3 Q. How do all access seats differ, if at all, from when you
4 say premium seating that you described a moment ago.

5 A. Well, the all access seats were just general seating in a
6 bowl, bowl meaning not seats on the floor but seats in what we
7 would call stationary seat in the arena.

8 Q. Are they the same seats?

9 A. You get the same seat for every event, yes.

10 Q. No, I'm sorry. Are premium seats and all access seats the
11 same?

12 A. No. Well, they were not located by the stage, so they
13 wouldn't have been premium. They were good seats but they just
14 weren't premium seats.

15 Q. And are all access seats available to the public to
16 purchase?

17 A. Yes.

18 Q. Do you have to be anybody special to buy those seats?

19 A. No.

20 Q. Now if we could just put back up 2102.

21 Do you recall how, if at all, you responded to
22 Mr. Carton's proposal in here to agree to a minimum of 200
23 seats to every nonsporting event?

24 A. I'm sorry, could you repeat the question.

25 Q. Yes. Do you remember how, if at all, you responded to

IAV7CAR6

Mangione - Direct

1 Mr. Carton's proposal here for a minimum of 200 seats to every
2 nonsporting event?

3 A. I do not recall.

4 Q. Did you ever agree to this?

5 A. No.

6 Q. Let's go to Government Exhibit 2103 which is in evidence.
7 And in particular if we can go to the last, page 3, the e-mail.

8 This is an e-mail from Mr. Carton to you and
9 Mr. Yormark on October 18, 2016, and in the e-mail Mr. Carton
10 says, "Would be cool to solidify a \$10 million deal before we
11 celebrate and honor you tonight." What did you understand
12 Mr. Carton was referring to when he talked about a \$10 million
13 deal here?

14 A. He was looking to follow up with the e-mail as far as
15 trying to get a deal in place to have \$10 million worth of
16 inventory for some concerts that were coming in.

17 Q. When you say \$10 million of inventory, to do what with that
18 inventory?

19 A. To resell on the secondary market.

20 Q. To purchase it from Brooklyn?

21 A. To purchase it from Brooklyn, and then try to resell on the
22 secondary market.

23 Q. And how did you view his proposal that this deal would be
24 solidified, a \$10 million deal, before the night came?

25 A. Well, you couldn't turn a contract over that quick, so...

IAV7CAR6

Mangione - Direct

1 THE COURT: You're dropping your voice.

2 THE WITNESS: Sorry. You wouldn't be able to turn a
3 contract over that quick.

4 Q. So how did you view this?

5 A. We didn't at that time.

6 Q. OK. And if we can go to earlier -- a little bit later in
7 this e-mail chain, in particular the e-mail on the top of page
8 2, the one at 4:05 p.m.

9 A. OK.

10 Q. So this is a little bit later the same day, October 18,
11 2016 at 4:05 p.m. You wrote to Mr. Carton, and I am going to
12 focus you on the third line down. Why don't we start from the
13 top. It says, "Craig, taking Brett off. Working with the box
14 office." Then you go on to say, "Issue is the zones you want
15 we actually do not control." Do you see that?

16 A. Um-hum.

17 Q. What did you mean by this issue about the zones you want we
18 don't control?

19 A. It just gets back to some of the locations he requested, we
20 just didn't control the seats that he requested.

21 Q. So does that relate at all to the proposal that he had
22 made?

23 A. Well, it was to the prior e-mail he was saying he was
24 looking for certain areas, when he said he wanted to get A1,
25 B1, C1.

IAV7CAR6

Mangione - Direct

1 Q. And then a little bit further down you said, "So working on
2 locations" -- same e-mail -- "So working on locations for you
3 to review. It changes event by event." What did you mean by
4 that?

5 A. Again depending on the concert, the promoter, some events
6 you get some better seats and some events you do not. So again
7 it just depends. There is a lot of artists who keep them all
8 in their control because they want their friends, family, VIPs
9 fan clubs to have the best seats possible.

10 Q. And as a result of that, were you able to sell a certain
11 amount of premium seating for every event?

12 A. No, it was event by event.

13 Q. If we can just go up to page 1 and focus on the e-mail at
14 4:18 p.m. So, this is later the same day October 18, 2016 at
15 4:18 p.m. And Mr. Carton writes to you, "We can draft an
16 agreement that says we have the right to buy up to \$20 million
17 of premium tickets to both venues prior to presale based on
18 inventory you control or have access to." Do you see that?

19 A. Yes.

20 Q. Were there any conversations that led to the amount of
21 money that the contract would be from 10 million -- which was
22 just several hours earlier -- to 20 million a few hours later?

23 A. Not that I recall.

24 Q. Now, if we could just go to the top e-mail, the one at 4:20
25 p.m. So a few minutes later you responded. Can you just read

IAV7CAR6

Mangione - Direct

1 the first line of your response.

2 A. "I would charge you event by event no need to prepay."

3 Q. What are you saying here?

4 A. That as events come in, we would let Craig know, seeing
5 what locations we had available, and then if he wanted to buy
6 them, he could buy them. There was no reason to give us a
7 bunch of money upfront. Again, we don't know the locations or
8 even how many events were coming in, so I didn't feel the need
9 for him to give us anything upfront.

10 Q. Did Mr. Carton ever send you a draft agreement relating to
11 the bulk purchase of tickets.

12 A. Yes.

13 Q. Did you ever at any time sign such an agreement?

14 A. Did not.

15 Q. Were you authorized as chief of staff in Brooklyn to sign
16 such an agreement?

17 A. I was not.

18 Q. Let's take a look at Government Exhibit 2104. If we can
19 just enlarge the top e-mail. It's in evidence.

20 It's an e-mail from Mr. Carton to you on the following
21 day, October 19, 2016. Do you see that?

22 A. Yes.

23 Q. And the subject is Re: Tonight. And Mr. Carton says,
24 "Fred. Great seeing you last night. I have attached a basic
25 term sheet which is more for me and the people who invest in my

IAV7CAR6

Mangione - Direct

1 fund than anything."

2 What did you understand Mr. Carton was referring to
3 when he said it's more for him and the people who invest in his
4 fund than anything?

5 A. Just that it was something he was showing to potential
6 investors as far as, you know, trying to get tickets for
7 venues.

8 Q. OK. And if we can go, Mr. Urbanczyk, to the attachment
9 here, to the first page of the attachment. And if we can just
10 enlarge the top of the page through the first paragraph.

11 So this is a document that's titled on the top, it
12 says Misoluki. And who is it addressed to?

13 A. Myself.

14 Q. And just focusing your attention on the first paragraph
15 that's displayed there, who does this agreement purport to be
16 between?

17 A. Misoluki and Brooklyn Sports and Entertainment.

18 Q. Through your conversations with Mr. Carton, did you learn
19 what Misoluki is?

20 A. I don't recall.

21 Q. Did you have any understanding of who controlled Misoluki?

22 A. I understood that Craig did.

23 Q. And dropping down to paragraphs 1 and 2 on this document
24 here, and just focusing your attention on the paragraph 2, it
25 says, "Sale of tickets to Misoluki LLC. Seller hereby agrees

IAV7CAR6

Mangione - Direct

1 to sell to Miso, and Miso hereby agrees to purchase from seller
2 up to \$20 million worth of tickets ..."

3 And if you just look higher up in paragraph 1, the
4 last sentence there, can you read that sentence beginning with
5 "Ticket".

6 A. "Ticket means a physical ticket entitling the bearer to a
7 single admission within any of the premium sections of a
8 respective venue."

9 Q. So was this something that Brooklyn was able to accommodate
10 consistent with the seating that was available to it?

11 A. No.

12 Q. And why not?

13 A. Again, it changes event by event, so we just couldn't
14 guarantee that we get the same sections and the same locations
15 for every event that came through.

16 Q. And if we can now go to the last page of this document and
17 just enlarge the portion on which there is writing.

18 This is the signature page. And focusing your
19 attention on the right-hand side, this is the signature block
20 for Brooklyn Sports and Entert. Do you see that?

21 A. I do.

22 Q. Who is listed there as the person who would be the signer
23 of that?

24 A. I assume it's supposed to be me, but my last name is
25 spelled wrong.

IAV7CAR6

Mangione - Direct

1 Q. How is it spelled wrong, in what way?

2 A. There is an S at the end instead of an E.

3 Q. Did you ever agree to or execute this agreement?

4 A. I did not.

5 Q. We can take that down.

6 Now, I want to focus your attention on December of
7 2016. Was Brooklyn then in discussions with various artists or
8 performers or promoters to bring specific shows to its venues?

9 A. We're always in discussion, so that's a year-round process,
10 yes.

11 Q. Do you recall any particular ones that at that time you
12 were in discussions with?

13 A. Well, we were starting to get our venue going for the new
14 Nassau Coliseum, so we were starting to program that venue, and
15 primarily it was Billy Joe, Barbra Streisand and Metallica at
16 that time.

17 Q. And focusing on Metallica for a minute, the discussions
18 centered around which venue for Metallica?

19 A. The new Nassau Coliseum.

20 Q. And you also mentioned that Barbra Streisand you were
21 discussing at that timeframe?

22 A. Correct.

23 Q. And what venues or venue or venues were you in discussions
24 with for Barbra Streisand?

25 A. Both venues, both Barclays and Nassau Coliseum.

IAV7CAR6

Mangione - Direct

1 Q. Now, as of December of 2016, had Brooklyn finalized
2 contracts for performances by either of those artists?

3 A. Not at that point, no.

4 Q. At some point during December 2016 did Mr. Carton approach
5 you to purchase tickets for those artists?

6 A. Yes.

7 Q. And if we can pull up Government Exhibit 2143. If we go to
8 page 2 at the bottom, the e-mail at 2:49 p.m.

9 So this is an e-mail on December 14, 2016 at 2:49 p.m.
10 from Mr. Carton to you. He says, "Great. Yes on these. Is
11 Metallica a show you own. And when is it, please."

12 What did you understand Mr. Carton to be referring to
13 when he says is Metallica a show that you own?

14 A. He was asking if that was a show we went directly to the
15 artist for where we would control the venue.

16 Q. And what's the difference in that regard to how many
17 tickets, if at all, you could sell to Mr. Carton or anyone?

18 A. Again, if you control the event, you own about 90 percent
19 of the building as opposed to a smaller percentage if a
20 promoter comes in.

21 Q. And if we could just go up to the e-mail at 2:52 p.m., page
22 2 in the middle. What is your response to Mr. Carton?

23 A. "We have not closed yet. Will know in a week."

24 Q. What will you know in a week?

25 A. We did not have a deal with Metallica at that point, and we

IAV7CAR6

Mangione - Direct

1 would know within a week if, one, they were coming and, two, if
2 it was our show or a direct show.

3 Q. And a little later in the e-mail chain, the 3:09 e-mail.

4 Here Mr. Carton is responding to you, and Mr. Carton says, "So
5 we are on the same page. Nassau 300 all event seats
6 (sections?) approximately \$3 million." What was Mr. Carton
7 referring to there?

8 A. The all access seats.

9 Q. And was that related in any way to the Streisand and
10 Metallica concerts?

11 A. No.

12 Q. OK.

13 A. That was a separate product.

14 Q. And then Mr. Carton goes on to say, "Streisand two dates
15 (?) I will buy as many as possible but for sake of a minimum
16 let's say 5,000 per show \$10 million per show." What did you
17 understand he was referring to here when he says Streisand two
18 dates?

19 A. Well, he was asking us if we were going to get both dates,
20 because we were trying to get her to play in both of our
21 buildings, not just one of them. And then he is saying -- we
22 made him aware at that point that Streisand if she did come was
23 going to be a self-promoted show, so we would be selling all
24 the tickets for that one ourselves.

25 Q. And then Mr. Carton says, "Metallica. If your show I will

IAV7CAR6

Mangione - Direct

1 take 5,000 seats." What did you understand him to mean when he
2 said "if your show"?

3 A. Same thing, if we were promoting the show and it was a
4 direct to the artist, that he was willing to purchase 5,000
5 sheets for the show.

6 Q. At this point did you know whether it was going to be your
7 show?

8 A. We did not.

9 Q. And if it wouldn't be your show, would there be any way you
10 could sell him 5,000 seats.

11 A. No.

12 Q. If we can just go up a little later in the chain, the
13 e-mail that's at 3:55 p.m., your response. So you respond to
14 Mr. Carton saying, "We have already sold a bunch of the seats.
15 I'll have more of a grasp of the inventory after the holidays."
16 What were you referring to here?

17 A. That was the all access seats.

18 Q. Did you respond at all in this e-mail to his request of the
19 Streisand and Metallica concerts?

20 A. I did not.

21 Q. Why not?

22 A. I just didn't have that information yet.

23 Q. Now, later that day, December 14, 2016, did Mr. Carton ask
24 you for an e-mail he would be able to provide to his investors?

25 A. I don't recall.

IAV7CAR6

Mangione - Direct

1 Q. OK. Let's take a look at Government Exhibit 2107, and if
2 we can just enlarge that.

3 And this is an e-mail, first of all, later that same
4 date, December 14, 2016, at 1104 p.m. Do you see that?

5 A. Yes.

6 Q. Mr. Carton to you and to Mr. Yormark, and he says, "So we
7 are on the same page and to simplify. All I really need is a
8 general e-mail tomorrow a.m. saying I can invest up to \$30
9 million in 2017 Nassau/Barclays events. Including but not
10 limited to (name shows)." Do you see that?

11 A. I do.

12 Q. What did you understand specifically focusing on the
13 portion of the line where he says "including but not limited to
14 (name shows)"?

15 A. Well, he was hoping that I could lay out what shows were
16 going to be coming to the venues.

17 Q. Hoping you could lay it out where?

18 A. In the e-mail.

19 Q. OK. And were you able to do that?

20 A. No.

21 Q. Why not?

22 A. I was not aware of all the shows that were coming in at
23 that point.

24 Q. Further in this e-mail does Mr. Carton say when he is
25 meeting with his investors?

IAV7CAR6

Mangione - Direct

1 A. Yes.

2 Q. When is he meeting with his investors?

3 A. 12 o'clock.

4 Q. And did you send Mr. Carton an e-mail for his investors as
5 he requests in this e-mail?

6 A. I did.

7 Q. Let's take a look at Government Exhibit 2109. If you can
8 just enlarge the header there for a moment.

9 This is an e-mail sent by you to Mr. Carton. And when
10 did you send this e-mail?

11 A. December 15, 10:51 a.m., 2016.

12 Q. What's the subject of the e-mail?

13 A. Follow-up.

14 Q. And if you can zoom out and just enlarge the entire e-mail.

15 Do you recall this e-mail?

16 A. I do.

17 Q. And where generally did you know what to put into this
18 e-mail? How did you come up with what to put in this e-mail?

19 A. Well, I constructed it based on what Craig sent us.

20 Q. OK. And let's just look at it. You write, "Craig, thank
21 you for your time yesterday. Following up on our conversation.
22 We are willing to work with \$30 million of our inventory in
23 Nassau and Brooklyn. And we will give you the ability in
24 January to purchase up to 100 to 200 all access seats for the
25 new Nassau arena." Do you see that?

IAV7CAR6

Mangione - Direct

1 A. I do.

2 Q. What are you referring to there with the 100 to 200 all
3 access seats?

4 A. Again, they were the all access seats that were going to be
5 for the new coliseum.

6 Q. And was that something you were able to say at this point?

7 A. Yes.

8 Q. And did your reference to the all access seats in the new
9 Nassau arena have anything whatsoever to do with the particular
10 performance of Streisand and Metallica that you had discussed
11 with Mr. Carton previously?

12 A. No.

13 Q. And then you go on to say, "If there are any shows we own
14 ourselves under the Brooklyn Direct umbrella. We will give you
15 the ability to purchase a bulk of tickets for those shows."
16 What are you saying there?

17 A. Again, those would be shows that we would own directly, so
18 then we would have the ability to sell a mass amount of
19 tickets, hence the purchase of bulk tickets for those shows.

20 Q. And in the next line you say "Past shows in Brooklyn we
21 have owned have been Billy Joe, Elton John, Jimmy Buffett and
22 more." Do you see that?

23 A. Yes.

24 Q. Is there anywhere in this e-mail that you specify future
25 specific performances that you would be able to sell to

IAV7CAR6

Mangione - Direct

1 Mr. Carton?

2 A. No.

3 MR. GOTTLIEB: Your Honor, objection. The e-mail
4 speaks for itself.

5 THE COURT: It does speak for itself. You know, make
6 your argument at the end of the case.

7 MR. KOBRE: Thank you, Judge.

8 Q. Just going back for a moment to 2107, just enlarge that.

9 You testified a moment ago that Mr. Carton had
10 asked -- look at the words "including but not limited to (name
11 shows)"

12 A. Yes.

13 Q. Were you able to comply with this request?

14 A. I was not.

15 Q. We can go back to 2109, and just enlarge that.

16 Was this e-mail a commitment to purchase any
17 particular -- to sell to Mr. Carton any particular shows or
18 events?

19 A. Just the all access.

20 Q. But any particular performances?

21 A. No.

22 Q. Did you say anything in this e-mail about performances for
23 Barbra Streisand or Metallica?

24 A. I did not.

25 Q. Could you at the time have told Mr. Carton you would sell

IAV7CAR6

Mangione - Direct

1 ticket for those shows?

2 A. No.

3 Q. Did you write anything in this e-mail about a term sheet?

4 A. No.

5 Q. Is there anything in this e-mail about a quantity of
6 tickets that you were going to be willing to sell to
7 Mr. Carton?

8 MR. GOTTLIEB: Your Honor, objection.

9 THE COURT: I'm sorry. I'm sorry. I need to talk to
10 Mr. O'Neil for a minute.

11 Objection is overruled.

12 Q. Did you say anything about the quantity of tickets that you
13 were committing to sell Mr. Carton at this point?

14 A. Again, just the all access seats.

15 Q. Now, you also testified earlier about certain procedures
16 that Brooklyn went through when contracts were executed. Did
17 any of those -- is what is laid out in this e-mail here, was it
18 ever formalized -- did you ever go through any of those
19 procedures?

20 A. No.

21 Q. Why did you send Mr. Carton this e-mail?

22 A. Craig was looking for some investors, as he stated in the
23 one before, and we were trying to help him.

24 Q. Mr. Urbanczyk, if we can pull up Government Exhibit 930.

25 And just focusing on first for a moment the header of

IAV7CAR6

Mangione - Direct

1 the e-mail, it's an e-mail from Mr. Carton on December 16, 2016
2 to several individuals, with e-mail addresses ending in
3 brigadecapital.com. Do you see that?

4 A. Yes.

5 Q. And the subject here is FWD: Follow-up.

6 A. Yes.

7 Q. If we could just zoom out and then enlarge the forwarded
8 e-mail, below where it says original message. And focusing
9 your attention on the header, it purports to be an e-mail from
10 you to Mr. Carton on December 15, 2016 at 10:50 a.m. Do you
11 see that?

12 A. Yes.

13 Q. And the subject is follow-up.

14 A. Yes.

15 Q. Mr. Urbanczyk, if we can put up Government Exhibit 2109
16 side by side with 930 and just enlarge them.

17 Just pointing your attention to Government Exhibit 930
18 on the left-hand side, through the following line where it says
19 "as I mentioned" and the next line as well, were either of
20 those two lines contained in an e-mail you sent to Mr. Carton
21 on December 15, 2016?

22 A. No, no.

23 Q. And just focusing your attention on the highlighted portion
24 of that e-mail, it states, "As I mentioned we have three
25 unannounced shows in 2017. Metallica in May/June prior to

IAV7CAR6

Mangione - Direct

1 their Stadium Tour and two Barbra Streisand shows in April."

2 Was it true that Brooklyn had those three shows at
3 that time on December 15, 2016?

4 A. Not at that point.

5 Q. Just explain why not?

6 A. We were still in negotiations with the artist.

7 Q. So was that a true statement?

8 A. Yes.

9 Q. Was it a true statement --

10 A. True statement that we were negotiations with the artist.

11 Q. Yes, thank you, Mr. Mangione. But focusing on what's being
12 written in the e-mail that we have these three unannounced
13 shows, was that true?

14 A. No.

15 Q. Mr. Mangione, did you send the e-mail that's depicted in
16 Government Exhibit 930, the forwarded e-mail there?

17 A. I did not.

18 Q. Focusing on the next line down in Government Exhibit 930,
19 the line beginning "we would ..." If we can highlight that.
20 And if we can highlight the sentencing beginning "we would" in
21 Government Exhibit 2109. In the e-mail you wrote in Government
22 Exhibit 2109 you wrote, "We would look for a \$3 million good
23 faith deposit ... " Do the words good faith appear in
24 Government Exhibit 930?

25 A. No.

IAV7CAR6

Mangione - Direct

1 Q. After the \$3 million?

2 THE COURT: You know, Mr. Kobre, you have your 16
3 people carefully chosen, all of whom can read; we know this
4 from the voir dire. Make your arguments at the end of the
5 case.

6 MR. KOBRE: Thank you, Judge.

7 Q. Just pointing your attention to one more line. If we can
8 just go down to the line in Government Exhibit 930, "I will
9 send a term sheet..." Did you write that line in your e-mail?

10 A. I did not.

11 Q. Thank you. We can take that down.

12 Actually if I can direct your attention --
13 can we put up Government Exhibit 930 for just one more
14 moment, and if we just enlarge the line beginning "As I
15 mentioned" in the forwarded e-mail.

16 Is there anything misspelled in this e-mail?

17 A. Barbra is misspelled.

18 Q. How would you spell it properly?

19 A. Barbra has a distinct way she spells her name, B-a-r-b-r-a.

20 Q. Is that an error that you --

21 A. I would not have done that.

22 Q. Why not?

23 A. Unfortunately when she came to our venue in 2012 someone on
24 my marketing team spelled her name wrong, and it was a bad day
25 for me when her manager called me and -- it wasn't a good day,

IAV7CAR6

Mangione - Direct

1 let me put it that way, so if there was any name I would spell
2 right, it was Barbra Streisand moving forward.

3 Q. Thank you. We can take that down now.

4 Now, and just to follow up, you saw a line in that
5 Government Exhibit 930 regarding a term sheet. Was it
6 generally part of your responsibility to prepare term sheets in
7 connection with business dealings at Brooklyn?

8 A. It was not.

9 Q. Let's take a look at Government Exhibit 2111, and focusing
10 on page 2 on the top, the top e-mail. This is an e-mail on
11 December 16, 2016 at 1:28 p.m. It says, Mr. Carton writes to
12 you, "For background. Will the Metallica concert be one that
13 you own it (like Barbara) or is it a promoter event?" What is
14 it you understand Mr. Carton is asking here?

15 A. If Metallica will be a promoted event through Live Nation
16 or if we would own it like we were going to own Barbra,
17 self-promoted event.

18 Q. Was that along the lines with what he asked previously,
19 what you saw in previous e-mails?

20 A. Um-hum.

21 Q. Barbra, is it spell correctly here?

22 A. It is not.

23 Q. Now, going to page 1 of Government Exhibit 2111, and
24 focusing your attention on the bottom e-mail, the one at 1:30
25 p.m. You respond to Mr. Carton on December 16, "Not a hundred

IAV7CAR6

Mangione - Direct

1 percent yet. Minimum of 50/50." What did you mean by that?

2 A. The Metallica show was not a hundred percent contracted
3 yet, and at a minimum a 50/50 meant that we were in talks
4 potentially owning half the show and a promoter doing half of
5 it. So the term copro means that the venue owns half the show
6 and then the promoter owns half it, so there was an opportunity
7 that we were maybe going to do that.

8 Q. Had that been finalized by this date and time, December 16,
9 2016?

10 A. No.

11 Q. And then you go on to say "Arfa's group who runs Billy. So
12 just a matter of how much risk each side wants to take. More
13 clarity in two weeks." What were you referring to "Arfa's
14 group who runs Billy"?

15 A. Arfa is Dennis Arfa who is Billy Joel's promoter and agent,
16 who we had dealings with for Billy Joe's concerts, and then
17 again it was going through negotiations of seeing how much risk
18 each side wanted to take.

19 Q. And when you said more clarity in two weeks, what was that?

20 A. In two more weeks hopefully we would finalize it.

21 Q. And if we can just go up to the e-mail at 1:32 p.m. Here,
22 Mr. Carton writes, "I am going to ask my investor for \$3
23 million for it." So what did you understand Mr. Carton was
24 going to ask his investor for?

25 A. \$3 million towards Metallica.

IAV7CAR6

Mangione - Direct

1 Q. And then he goes on to say, "So please consider me an all
2 in investment partner. When would show be."

3 And if you could just take a look at your response a
4 little bit further up on the page. You respond to Mr. Carton
5 on December 16, 2016, you say, "OK just want to make sure you
6 know the structure can change. So don't want to put you in a
7 tough spot if economics change."

8 What do you mean here when you told Mr. Carton you
9 didn't want to put him in a tough spot if the economics change?

10 A. I just didn't want him to promise something to his
11 investors that wasn't going to happen.

12 Q. And what was it that might not happen?

13 A. Again, well, one, we could not get the show, and then it
14 could be a promoted show or copro show. There was just a lot
15 of different -- there was just a lot of different things that
16 were going against the show to see if they were going to even
17 come to the building first and foremost.

18 Q. And just maybe to jump to the end, what was the ultimate
19 result of the Metallica show?

20 A. Well, they did come, and it ended up being a Live Nation
21 event; it was a promoter event.

22 Q. How if at all did that effect your ability to sell
23 Mr. Carton tickets?

24 A. Our inventory became limited.

25 THE COURT: Mr. Kobre, find a spot where it's going to

IAV7CAR6

Mangione - Direct

1 be a good spot in the next five, ten minutes or so to break for
2 the day.

3 MR. KOBRE: Sure, your Honor. We could break now, or
4 I can go another few minutes.

5 THE COURT: Go another few minutes.

6 MR. KOBRE: Yes, Judge.

7 Q. If we can pull up Government Exhibit 914, which is in
8 evidence, and if we can just enlarge first for a moment the
9 header of the page.

10 This is an e-mail from Mr. Carton to several
11 individuals with e-mail addresses ending at Brigade capital,
12 and it's sent on December 16, 2016. Do you see that?

13 A. I do.

14 Q. And it also has an attachment. It says "Attached: TJ
15 Barclays.PDF. Do you see that?

16 A. Yes.

17 Q. It's a forwarded e-mail. It's subject is FWD: Follow-up.
18 Do you see that?

19 A. Yes.

20 Q. If we can just zoom out and just enlarge the forward
21 e-mail.

22 This is an e-mail that purports to have been sent by
23 you, Fred Mangione, to labs123@aol.com. By the way, do you
24 recognize that e-mail address?

25 A. I do, yes.

IAV7CAR6

Mangione - Direct

1 Q. Whose e-mail address is it?

2 A. Craig Carton's.

3 Q. And it purports to have been sent on December 16, 2016 at
4 4:50 p.m. with the subject follow-up. And you wrote, "Craig,
5 if everything is in place please execute and we will do the
6 same." Do you see that?

7 A. I do.

8 Q. And, Mr. Urbanczyk, if we can just pull out of this e-mail
9 and just show Mr. Mangione, scroll through the attachment.

10 Mr. Mangione, if we go back to the top e-mail -- Mr.
11 Mangione, did you ever send this e-mail?

12 A. I did not.

13 Q. And if we can display on page 2, the agreement.

14 Prior to being shown this document by the F.B.I., had
15 you ever seen that document before?

16 A. I had not.

17 Q. Did you ever send this document by e-mail or otherwise?

18 A. I did not.

19 Q. Where were you? Going back to the e-mail, the e-mail
20 purports to have been sent on December 16, 2016. Where were
21 you on that date?

22 A. I was in Orlando, Florida.

23 Q. And how do you know that?

24 A. I was meeting with the president of the Orlando Magic.

25 Q. If you can show Mr. Mangione -- just the witness and

IAV7CAR6

Mangione - Direct

1 counsel and the Judge -- 2110 and 2140.

2 Do you recognize those documents, Mr. Mangione?

3 A. Yes, it's my calendar.

4 Q. And was keeping a calendar for your work at Brooklyn a
5 regular practice of yours?

6 A. Yes.

7 Q. Did you keep the calendar in the course of your regular
8 duties and responsibilities as COO and chief of staff of
9 Brooklyn?

10 A. My assistant did, but yes.

11 Q. And did your assistant make the entries in your calendar at
12 or about the time that events on your calendar needed to be
13 scheduled?

14 A. Yes.

15 MR. KOBRE: The government offers 2110 and 2140.

16 THE COURT: Any objection?

17 MR. GOTTLIEB: Your Honor, may I just have one moment,
18 please?

19 THE COURT: Sure.

20 MR. GOTTLIEB: Your Honor, we just want to clarify.
21 Looking at 2140 --

22 THE COURT: Are you asking for a voir dire?

23 MR. GOTTLIEB: It might even be simpler the other way,
24 but I can ask the witness, your Honor.

25 THE COURT: Why don't you. If you want to voir dire,

IAV7CAR6

Mangione - Direct

1 voir dire.

2 MR. GOTTLIEB: OK.

3 VOIR DIRE EXAMINATION

4 BY MR. GOTTLIEB:

5 Q. Mr. Mangione, Government Exhibit 2140, is that your
6 calendar?

7 A. Yes.

8 Q. That's your calendar that indicates a meeting. If you just
9 look at it without telling us what's in it, looking at that
10 calendar --

11 THE COURT: The answer was yes, it's his calendar.

12 MR. GOTTLIEB: OK, no objection then.

13 THE COURT: Fine, they are admitted.

14 (Government Exhibits 2110 and 2140 received in
15 evidence)

16 DIRECT EXAMINATION

17 BY MR. QUIGLEY:

18 Q. Mr. Urbanczyk, if we can public Government Exhibit 2110 for
19 the jury. and if we just enlarge first for a moment the 7 a.m.
20 to 10 a.m. time slot.

21 What were you doing the morning of December 16, 2016?

22 A. I was flying to Orlando, Florida.

23 Q. And zooming out for a moment, what were you doing during
24 the period from about 4:30 until about 6:15?

25 A. We were having a meeting with the executive team, Orlando

IAV7CAR6

Mangione - Direct

1 Magic's executive team, me meaning Brett Yormark and myself.
2 Alex Martins was in there as the president, Charlie Freeman is
3 the COO.

4 MR. KOBRE: Your Honor, this would be a good place to
5 take a break.

6 THE COURT: OK, folks, then we're going to break until
7 tomorrow, and we will start probably about a quarter of ten.
8 Don't discuss the case tonight. Keep an open mind. See you
9 tomorrow.

10 (Continued on next page)

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IAV7CAR6

Mangione - Direct

1 (Jury not present)

2 THE COURT: OK. I'm going to excuse Mr. Mangione for
3 the day.

4 How much more do you have, Mr. Kobre?

5 MR. KOBRE: A fair amount, your Honor.

6 THE COURT: Yes, somehow I thought Mr. Mangione was
7 going to be a pretty significant witness.

8 MR. KOBRE: Yes.

9 THE COURT: Who else does the government have up
10 tomorrow?

11 MR. KOBRE: Can you just give us one moment just to
12 caucus?

13 THE COURT: Yes.

14 MR. KOBRE: Your Honor, so in addition to
15 Mr. Mangione -- who I think will go on direct probably another
16 hour or so -- we also have Ron DelGaudio, who also is a
17 significant witness; Rick Kinsella likely. We have a custodian
18 we plan to call tomorrow, and we also plan to read some
19 additional e-mails.

20 THE COURT: OK. If DelGaudio is a significant
21 witness -- I figure Mr. Mangione is going to take up pretty
22 much the morning, including cross.

23 MR. KOBRE: That's a good prediction.

24 THE COURT: OK. So, Mr. DelGaudio -- am I saying his
25 name correctly?

IAV7CAR6

Mangione - Direct

1 MR. QUIGLEY: That's right. I would estimate his
2 direct maybe 45 minutes, maybe even a little bit less. I don't
3 know how much cross they have.

4 THE COURT: We can certainly put the custodian on
5 right after lunch and get the custodian out of the way.

6 MR. QUIGLEY: Yes, it's a very brief witness.

7 THE COURT: Right. Look, I'd love to get through
8 three or four more witnesses tomorrow.

9 MR. QUIGLEY: I think honestly, your Honor, I think
10 we're on pace where we thought we would be going with the
11 trial.

12 THE COURT: Well, that just depends, where you thought
13 you would be. I mean I could see a scenario where the
14 government would rest tomorrow. I could see a scenario where
15 you would want to go on for another week. I don't appreciate
16 that one, but --

17 MR. QUIGLEY: I think we thought we would bring the
18 case in less than two weeks, and I think we're well on track.

19 THE COURT: I should hope so.

20 OK. All right. See you tomorrow.

21 (Trial adjourned to November 1, 2018 at 9:45 a.m.)
22
23
24
25

INDEX OF EXAMINATION

Examination of:	Page
-----------------	------

HARVEY KLEIN

Direct By Mr. Kobre	233
-------------------------------	-----

VICTOR PEREIRA

Cross By Mr. Janey	237
------------------------------	-----

Redirect By Mr. Kobre	248
---------------------------------	-----

HARVEY KLEIN

Direct By Mr. Kobre	257
-------------------------------	-----

Cross By Mr. Janey	297
------------------------------	-----

Redirect By Mr. Kobre	312
---------------------------------	-----

BRETT YORMARK

Direct By Mr. Quigley	316
---------------------------------	-----

Cross By Mr. Gottlieb	339
---------------------------------	-----

Redirect By Mr. Quigley	376
-----------------------------------	-----

LUKE URBANCZYK

Direct By Mr. Quigley	393
---------------------------------	-----

FRED MANGIONE

Direct By Mr. Kobre	399
-------------------------------	-----

GOVERNMENT EXHIBITS

Exhibit No.	Received
-------------	----------

8	254
-------------	-----

1	256
-------------	-----

2006, 2006-A, 2016, 2016-A, 2016-B,	257
---	-----

2026, 2026-A, 2028, and 2029	
------------------------------	--

1	1701 through 1715	263
2	1700	293
3	2112	333
4	2101	351
5	[Exhibits]*[received]	363
6	289	384
7	288, 289, 291, 292, 293, 744, 745, and 749	389
8	2110 and 2140	445